

Maine Land Trust Network Resource Document

Qualified, independent real estate appraisers are a key component of many transactions involving land trusts and conservation commissions. In fact, Practice 9H of *Land Trust Standards and Practices* provides guidance for how appraisals are a critical component of sound land transactions. Specifically, “When buying land, conservation easements or other real property interests, [a land trust must] obtain an independent appraisal by a qualified appraiser in advance of closing to support the purchase price.”¹

Currently, there is a shortage of appraisers who are both qualified *and* interested in working with land trusts in the northeast, which in turn is impacting the availability, timing, and cost of appraisals. While there are efforts underway to increase the number of qualified appraisers around Maine, quality contact by land trust staff and others engaging the appraisers is also important to ensure that appraisers want and have the tools and context necessary to take on the complicated work involving conservation transactions. If land trusts manage projects well, communicate clearly, and provide all necessary information, appraisers may be more likely to perform work in the conservation sector. Based on input heard from several appraisers around Maine, MCHT has pulled together this working draft checklist to help give guidance on working with appraisers.

A Checklist for Maine Land Trust Staff Working with Real Estate Appraisers

This checklist provides suggestions for land trust staff and others on:

1. The preparation needed before contacting an appraiser
2. Finding the right appraiser
3. Information that is needed by the appraiser
4. Communicating with the appraiser throughout the project

Prior to looking for an appraiser. Be sure the details of the project are clear and flag all ambiguities that could make the appraiser’s work more difficult and costly. Questions to address up front include:

- For exactly what property, properties or land interests is this market valuation needed?
- What is the date by which you need the market valuation? If the appraisal is going to be used for income tax purposes by a donor, then the date of value can be dated no more than 60 days prior to the date of the donation.²

¹ More information on Practice 9H is available on the Land Trust Alliance’s Resource Center: <https://landtrustalliance.org/resources/learn/topics/land-trust-standards-and-practices/standard9/practice9h> (Please note: we recommend logging into your account first).

² When a landowner donates land or a conservation easement, the process and the land trust’s responsibilities are different. In such situations, the landowner is responsible for securing an appraisal to substantiate the value of the gift for federal income tax purposes or for state tax credits, where applicable (see Practice 10A1c).

- Who is the client (make sure to consider funder requirements about this)? Are there multiple intended users that should be listed in the appraisal report?
- What is the purpose of the appraisal (needs to be established before hiring the appraiser)?
 - For negotiation purposes (in which case you may never decide to share the report)?
 - On projects where there is not yet a signed purchase agreement and certainty of a deal, you may want to consider a “two-step approach” to appraisals:
 1. Engage the appraiser to prepare either a verbal report or a restricted report for negotiating purposes and then, if a deal is inked,
 2. Have the appraiser do a full report for securing public dollars and other grants.

This saves substantial dollars if the deal doesn’t materialize and also allows things to be tweaked as necessary before a full appraisal report is completed.
 - For grant requirements (where the report may be shared with local, state, federal, or non-profit funders and need to abide by funder requirements)?
 - For claiming state or federal income tax deductions (therefore will need to follow IRS requirements)?
- What level appraisal do you need or does the grant funding require (if any)? *Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Appraisal Standards for Federal Land Acquisitions (a.k.a. “Yellow Book”, for projects involving federal funding sources)?*
 - Make sure to let the appraiser know the grant program being used, that way they can plan on what type of review will be coming and what extras are required. Many federal programs require slightly different report requirements all under the umbrella of Yellow Book.
- Exactly what is being conserved and what does the landowner own? *Is the entire parcel (or the landowner’s entire landholding) being conserved or just a portion of it? Does the landowner intend to subdivide the property, create a building envelop, or otherwise alter the property for this transaction?*
 - Very important to know upfront for all UASFLA appraisals. This information can have a substantial effect on the appraised value of a property. Land trusts need to realize the implications of UASFLA requirements before entering into buy/sell contracts.
- Are there any outstanding title issues?³
 - Remember, it is not the job of the appraiser to be a title searcher or environmental consultant. If there appear to be title issues and/or environmental issues, they need to be addressed early on in the process so the appraiser can take them into account.
- A title investigation will also help determine if there is both physical access and legal access to the property or whether the access is in doubt? *Is there public roadway frontage or legal rights of way, and if there are rights of way, how are they limited or described? Are there physical roadways or are there only ‘paper roads’? Are there disputes amongst feuding neighbors or other third parties regarding title, boundary lines or ROW?*
 - This information will help the appraiser to determine fair market value - the effect on value due to access limitations is immense in a state like Maine where no “right to access” law exists. It will also help the land trust to assess the project.

³ S&P Practice 9F states that “prior to closing and preferably early in the process, have a title company or attorney investigate title for each property or conservation easement the land trust intends to acquire.” Getting this title investigation as early in the transaction process as possible and sharing it with the appraiser can help ensure that any title exceptions are addressed up front and appropriately considered in the appraisal process.

- Are there any potential environmental concerns such as hazardous materials on site or nearby that are likely to end the deal or impact the property interest's market value? If so, the land trust should also consider a formal Phase 1 Environmental Assessment.⁴
- Are there any covenants on the property such as subdivision covenants or view easements? *If so, these should be revealed as part of the title search and copies of these deeds should be provided to the appraiser in advance.*
 - Don't expect the appraiser to find these, properties change ownership and sometimes the easements/covenants do not show up in recent deeds.
- Are the property boundaries clearly identifiable and marked on the ground in some way to easily be found? *Are there encroachments from neighboring properties? Is there a survey, and if so, does the survey indicate any boundary line issues, encroachments, or other issues?* A survey is not required for the appraisal pursuant to USPAP; however, provide the appraiser with any maps, drawings, or other information to identify the property interest for the fair market analysis.⁵
- For conservation easement projects, work with the landowner early in the process to agree and document the restrictions and "reserved rights" that will become the substantive part of the conservation easement. Provide the appraiser with a concise summary or preliminary draft of the conservation easement that is unlikely to substantially change. Consider asking the landowner to sign a non-binding "term sheet" to reduce the likelihood of there being substantive changes that would impact valuation. *Is your land trust, (staff and appropriate board committees) in clear agreement with these objectives?*

Early in the process, make sure to gauge the landowner's expectations as to fair market value expectations. Make sure to not give advice or build landowner expectations as to fair market value.⁶ Work with the appraiser and other contractors to ensure that the appraisal assignment and any related transactional work is done early in the process to ensure that it is completed in a timely manner.

Finding a qualified appraiser.

- Not all appraisers are willing to do conservation appraisals or have the appropriate experience. *Maine appraisers with experience in conservation transactions can be identified using the [MLTN list of appraisers](#), or checking the [Appraisal Institute's \(Maine, Mass, RI Chapter\) list of its members working in Maine](#). The MLTN list includes appraisers who have indicated that they would like to work with land trusts and other landowners on conservation appraisals.*
- Determine if the appraiser has experience in the type of appraisal you'll need. *Appraising conservation easements requires specialized knowledge and experience. Further, how will the project be funded? If a project is going to utilize federal funds, you will need an appraiser who*

⁴ For more information, see Practice 9C which states, "For every land and conservation easement transaction, conduct or obtain a preliminary environmental investigation, transaction screen or Phase I assessment to identify whether there are any conditions that pose environmental risks, and take steps to address any significant concerns."

⁵ S&P Practice 9D states that land trusts should, "Determine both the legal description and physical boundaries of each property or conservation easement."

⁶ S&P Practice 9B states, "Do not give individualized legal, financial or tax advice when providing transaction-related information."

can do a Uniform Appraisal Standards for Federal Land Acquisitions (a.k.a. “Yellow Book”) appraisal and that appraisal will need review by a review appraiser. If a project is going to use funding from Land for Maine’s Future, you may want someone with Land for Maine’s Future experience.

- The Land Trust Alliance and MLTN *are not able to recommend appraisers but consider speaking with your neighboring land trusts about experiences they’ve had with the appraiser(s) they regularly use.*
- *Some appraisers have specialties for certain types of property (e.g., islands) and others may focus on certain parts of the State.*
- As with hiring any contractor, you will need to enter into an agreement with the appraiser. When discussing the assignment with the appraiser, make sure to share all information that you can to ensure that the work can be done in an accurate manner and without surprises.

Once you’ve selected your appraiser, you’ll need to provide them (preferably in one package delivered at the same time) with:

- A description or map of the property that includes adjacent properties that may be owned by the same landowner and identifies abutting ownerships. You should provide copies of old deeds, surveys, or title policies if available. For a conservation easement, provide either a draft of the easement terms or some equivalent (conservation plan, terms sheet, etc.) and update the appraiser if any of those terms change during your negotiations. For forested properties, provide information related to that use (e.g., forest management plan, timber cruise, etc.). For land being used for agriculture, provide information related to that use (soil maps, leases, information regarding any farming programs that the land may be enrolled in).
- Title Report or “back title” (if available at this point in the process)
- Instruct the appraiser as to the appraisal purpose and intended users. *The manner in which you and others use the appraisal may impact how information is presented. Clarify who is allowed to see what portions of the appraisal or discuss it during the project.*
- If applicable, let the appraiser know about any funding sources that may be used to purchase a property interest, including any applicable standards, and specific instructions. *What grants you apply for may determine the standards the appraiser has to meet, how information is presented, etc.*

Communication with the appraiser.

- Ensure that there are clear lines of communication between you and the appraiser and:
 - Your organization
 - The landowner, if appropriate.
 - Any appropriate agency or third-party organization
 - Any appraisal reviewer
- Communicate any deadlines and timing expectations upfront and follow up with reminders. Figure out realistic deadlines. Don’t communicate “as early as possible” and then wait an extended period to give the appraiser information. Be realistic with landowners, be realistic about timing on acquiring title and other necessary information about the property, and be realistic with the appraiser. Also be cognizant of the point in the process in which you engage the appraiser. Don’t wait until 6 months into an option agreement that runs for 9 months to call an appraiser.

- Alert the appraiser immediately if there are changes in property conditions or assumptions.
- Inform the appraiser if there are other experts and consultants involved with the project.
- Request a draft of the appraisal and carefully review it before the final document is delivered to address any questions or concerns you may have.
- Clarify expectations around any oral opinions provided vs the written, final report.

For more information:

- Land Trust Alliance's documents [The Art of Appraisals](#) and [Key Appraisal Concepts and Methods of Valuation](#)
- Land Trust Alliance webinar [Appraisal Basic for Land Trusts](#) by Vicki Adams
- https://www.appraisalfoundation.org/imis/taf/standards/q_as/taf/qas.aspx
- <https://www.maine.gov/pfr/professionallicensing/professions/board-real-estate-appraisers>.