Land Donations and Appraisals – Information for Donors
~ fee simple and conservation restriction projects ~

Are you interested in donating land to the Lowell Parks & Conservation Trust (LP&CT)?
When you give land to LP&CT, you are creating a permanent legacy and helping ensure that future
generations can enjoy the benefits of the natural resources of the city of Lowell. Making a donation of
land can be a very personal decision and there are many ways to go about it. In addition to donating land,
you may choose to donate a property that does not have conservation value and/or is not related to the
Trust’s mission but which can be resold to benefit LP&CT’s land conservation goals. You may also
choose to donate a conservation restriction (or easement) on your property. A donation can be made
during your lifetime or you can leave it through your will. Your donation can provide significant income
tax, estate tax, or capital gains tax benefits.

LP&CT’s staff and board members can help you with this process and your options. Please call us at
(978) 934-0030 or email us at info@lowelllandtrust.org for our guidance and advice.

DONATION OF A CONSERVATION RESTRICTION

What is a Conservation Restriction?
Conservation Restrictions offer one method of helping landowners to maintain their property as protected
open space, forever. A Conservation Restriction (also called a CR or Conservation Easement) is one of
several methods of protecting land. It’s a legal agreement between a landowner and a land trust (or other
agency) designed to permanently protect the conservation values of a property by defining allowed
uses.

Where is there a Conservation Restriction in Lowell?
LP&CT currently co-holds one conservation restriction in partnership with The Trustees of Reservation
(www.thetrustees.org). This five-acre property is located near the junction of West Meadow Street and
Varnum Avenue and is known as Hawk Valley Farm. This property has significant history and its
ownership within the Varnum family dates back to the 1600’s. The property is often used for education
programming, but is open to the public, where you can enjoy the trails, the view out to the Merrimack
River, and watch hawks soaring overhead. A brochure about the property is available on site and
provides land use history information and a simple trail map.

Conservation Restriction Donation Requirements and Considerations
Because a conservation restriction most often involves a tax benefit to the donor, an appraisal is usually
required to calculate the value of that donation. The monetary value of a conservation restriction is the
market value of those property rights and restrictions conveyed by a landowner to a land trust. An
appraisal estimates the value of those rights by calculating the impact of the restriction on the value of the
protected property. It is the donor’s responsibility to determine the value of the donation.

Is an appraisal required to complete a conservation restriction with LP&CT?
Not necessarily. A landowner is required to obtain an appraisal if the landowner is donating a
conservation restriction and intends to seek a charitable income tax deduction for the gift. A landowner
may also need an appraisal to obtain a mortgage subordination or to support a request for a property tax
adjustment. An appraisal can also be helpful for financial estate planning purposes. The IRS requires a
qualified appraisal if a gift of property is valued at more than $5,000. See our Appraisal Requirements below.

What is the purpose of an appraisal of a conservation restriction?
The appraisal may have several uses. For charitable contribution purposes, the appraised value of the restriction is used to determine the amount of the income tax deduction. Finally, while LP&CT does not typically have the capacity to purchase conservation restrictions, an appraisal may be used to substantiate the purchase price in such a situation.

How does an appraiser estimate the value of a conservation restriction?
Typically, an appraiser determines the value of an restriction by comparing the value of the property without the restrictions in place and the value of the property with the restrictions in place. The difference is the value of the restriction itself.

As a simple example:

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value of the land before the conservation restriction</td>
<td>$500,000</td>
</tr>
<tr>
<td>Value of the land after the conservation restriction</td>
<td>$275,000</td>
</tr>
<tr>
<td>Difference = value of the conservation restriction</td>
<td>$225,000</td>
</tr>
<tr>
<td>Proportionate value of the conservation restriction</td>
<td>45%</td>
</tr>
</tbody>
</table>

Generally, a more restrictive restriction will result in a higher proportionate restriction value. But each parcel of land and each set of conservation restrictions are unique. Therefore, no set or average percentage of value can be attributed to the rights relinquished in a restriction.

Factors that are considered by an appraiser include the location and character of the property, existing zoning regulations, and future land use trends. The appraiser will need to understand the specific restrictions placed on the land and the rights reserved by the landowner in the restriction. Finally, the appraiser will need to evaluate the potential of the conservation restriction to enhance the value of any contiguous or other property owned by the landowner or the landowner's family.

Are all appraisers qualified to complete a conservation restriction appraisal?
There are no specific credentials required for appraising conservation restrictions but not all appraisers are familiar with the unique nature of CRs or have experience appraising them. In selecting an appraiser, consider appraisers that have experience with conservation restrictions and if the appraiser has taken classes specifically targeting CR appraisals. NOTE: Reputable appraisers will disclose in advance any lack of experience with or knowledge about conservation restriction appraisals.

DONATION OF LAND WITHOUT RESTRICTIONS (FEE SIMPLE)
The Lowell Parks & Conservation Land owns land throughout the city of Lowell that we manage in perpetuity (forever) for public use and enjoyment. LP&CT can acquire land through the gift of conservation land and/or buildings. The donor of the land often provides an endowment to defray the costs of managing the land. Another option is for LP&CT to purchase land, usually at a bargain sale price, and almost always with the aid of a special fundraising campaign.

APPRaisal REQUIREMENTS & CONSIDERATIONS
Donations that will incur a tax benefit require an appraisal. The appraisal procedure and report must conform to specific IRS standards. See Treasury Regulations §1.170A-13(c) and §1.170A-14(h) for more detail. The Lowell Parks & Conservation Trust (LP&CT) requires that all project appraisals be performed by Massachusetts licensed real estate appraisers. For conservation projects, appraisers must hold certification in general real estate. All appraisal reports must conform to the Appraisal Foundation's Uniform Standards of Professional Appraisal Practice (USPAP).
APPRAISAL REQUIREMENTS & CONSIDERATIONS, cont.

When should the appraisal be done?
For charitable deduction purposes, the appraisal must be completed no earlier than 60 days before the date of the gift (the date on which the conservation restriction is signed and accepted by the Lowell Parks & Conservation Trust) and no later than the date on which the tax return for that year is due. In some circumstances, an older appraisal can be updated. Contact an appraiser early in the process, as it may take up to 4 to 6 months to complete an appraisal.

How much do most conservation restriction appraisals cost?
Appraisal costs vary dramatically, often depending upon the complexity of the conservation restriction. In Massachusetts, appraisals range from more typical costs of $3,000 to $6,000 to as high as $10,000 or more. The fee for the appraisal may be deductible if the appraisal is being used to value the restriction for income tax purposes. NOTE: An appraiser should never base a fee upon a percentage of the appraised value.

Why are the appraisals so expensive and why do they take so long?
Conservation restriction appraisals are complicated. They often require a high degree of analysis, extensive research, and a considerable investment of time to ensure the accuracy of both the “before restriction” and “after restriction” value of the property. The time of year, accessibility of the property and the availability of the appraiser may also have an impact.

A relative of mine is an appraiser. Can that relative appraise my land?
The purpose of an appraisal is to obtain an independent assessment of the value of the restriction. Therefore, an appraiser should not be related to the land, the landowner or the transaction in any way that would question the appraiser's neutrality. IRS regulations further specifically prohibit appraisals by immediate family members or their spouses.

Is it necessary to be concerned about the appraisal process?
The IRS views this issue very seriously and may impose substantial penalties on both the landowner and the appraiser for gifts that are overvalued for tax purposes. Landowners are well advised to choose an appraiser carefully and to work with the appraiser, a tax advisor and the LP&CT throughout the process of completing a conservation restriction.

FORM 8283 & APPRAISALS
Donors seeking charitable income tax deductions are required to submit a completed IRS Form 8283 to LP&CT. Please review the form to meet the checklist below, including a signature from the appraiser, the value of the property filled in, a copy of the appraisal itself, and submit the to LP&CT at least thirty (30) days before you need our signature on the Form 8283.

LP&CT reserves the right not to sign the Form 8283 if the board of directors of the LP&CT has significant concerns about the tax deduction, the accuracy of the Form 8283, or if the appraisal does not meet the Treasury Department Regulations for a qualified appraisal. Should this unusual action be taken, donor will be notified in writing, and Greater Worcester Land Trust, Inc. will reconsider signing the form once adequate modifications are made.
Checklist For Complete And Accurate Forms 8283 And Supporting Appraisals

A complete and accurate Form 8283 includes the following:

- The name(s) of the landowner(s).
- The correct gift type is checked (in other words, “Qualified Conservation Contribution” for conservation restrictions or “Other Real Estate” for fee lands).
- There is either a sufficient gift description to confirm what was donated or a supplemental statement that does so.
- The fair market value stated on the Form 8283 corresponds to the appraised value.
- The Form 8283 includes any bargain sale payments made to the landowner. (If the organization paid for the supporting appraisal or provided other payments, the payment is reflected on the Form 8283 or other tax forms.)
- The Form 8283 includes the signature(s) of the appraiser(s).
- The date of the gift is accurate. (For conservation restrictions, the date of donation is the date of recording. For fee properties, the date of donation is date of delivery unless otherwise specified by state law.)
- The unrelated use box is checked “no.” If checked “yes,” the organization notifies the landowner that this may impact the deduction.
- The organization signs the Form 8283 after the appraiser.

Qualified appraisals will include the following:

- The effective date of valuation listed in the appraisal is not more than 60 days prior to the date of the gift and is not after the date of the gift.
- The appraisal does not indicate that the appraiser’s fee was based on a percentage of the value of the property or property interest.
- The appraisal contains:
  - A description of the property (including any extraordinary assumptions made in the appraisal) in sufficient detail to determine that the property or property interest appraised was the property or property interest donated
  - The terms of any agreement or understanding entered into (or expected to be entered into) by or on behalf of the donor that relates to the use, sale or other disposition of the donated property (such as a conservation easement)
  - The qualifications of the appraiser
  - A statement that the appraisal was prepared for income tax purposes
  - The appraised fair market value of the contribution
  - The method of valuation used to determine fair market value, such as the comparable sales approach or income approach
  - The specific basis for the valuation, such as inclusion of comparable sales transactions
- For conservation easements, the appraisal addresses enhancement and/or tracts of land which possess unity of ownership, if applicable.
- The appraisal is prepared, signed and dated by an appraiser.