

Santa Fe Conservation Trust
APPRAISAL AND IRS FORM 8283 POLICY
Policy 4.12
Adopted On: 10/26/2021
Updated:

Introduction

The public's impression of land trusts and support for private land conservation is affected by their perception of the integrity of conservation transactions. While the Internal Revenue Service does not hold land trusts responsible for the tax deductions claimed by a landowner, land trusts have an ethical obligation to help minimize the misuse of tax policies designed to further the voluntary protection of land. To this end, the Santa Fe Conservation Trust (SFCT) will evaluate each transaction and take actions to resolve concerns with an appraisal, appraised value, IRS Form 8283, or other terms of a transaction. SFCT will not knowingly participate in fraudulent or abusive transactions.

Early Due Diligence

Early in the transaction, SFCT will tactfully inquire about an owner's history with the land and expectations of easement value. If the landowner has held the property for a short period of time or appears to have inflated expectations of value, SFCT will remind the landowner of our appraisal review requirements and proceed with caution. The Engagement Letter that SFCT signs with all landowners affirms SFCT's right to decline to sign Form 8283 if we believe an appraisal to be deficient in any way.

SFCT will ask to review a landowner's appraisal as soon as it is available, ideally before closing. If SFCT has concerns about a transaction based on the appraisal, as further discussed below, it will take appropriate action. Appropriate action may include sharing concerns in writing with the landowner, involving legal counsel, seeking an independent substantiation of value, and withdrawing from the transaction before closing if significant concerns remain. If an appraisal cannot be completed prior to closing, SFCT will communicate in writing with the landowner reiterating our appraisal review requirement and notifying them of the risks involved in closing before an appraisal has been received and reviewed.

Reviewing Appraisals

SFCT will complete a written appraisal review checklist for each appraisal received.

Threshold requirements

SFCT will check to make sure the following are included in all appraisals:

- A definition of market value as "the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy

or sell and both having reasonable knowledge of relevant facts,” per Treasury regulation §1.170A-1(c)(2).

- A statement that the appraisal was prepared for the income tax purposes of the donor.
- An appraisal date no more than 60 days before the date of the donation.
- A description of the method(s) of valuation used to determine fair market value, such as the comparable sales approach or income approach,
- A detailed description of the terms of the conservation easement or any other agreement or understanding that relates to the use, sale or other disposition of the property.
- A statement indicating that the appraiser’s compensation was not contingent upon any of the following: the development or reporting of a predetermined value or direction in value, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of the appraisal.
- The appraisal must have been prepared by a *qualified appraiser*. Generally, a qualified appraiser cannot be the donor, donee, a party to the transaction in which the donor acquired the property, an employee of or related to any of the forgoing persons or any person whose relationship to the taxpayer would cause a reasonable person to question the appraiser’s independence. An appraiser who is regularly retained by any of the above and who does not perform a majority of their yearly appraisals for other people is not a qualified appraiser.

There are specific Treasury regulations governing the determination of the value of conservation easements (Treas. Reg. §1.170A-14(h)(3)), including that an easement appraisal consider the economic effect of a conservation easement contribution on other property owned by the donor, the donor’s family and the donor’s business associates. When applicable, SFCT will check that these considerations are included:

- The contiguous property rule. When a donor contributes a conservation easement over only a portion of contiguous property owned by the donor or the donor’s family, the regulations require that the value of the easement be determined by appraising the entire contiguous property, both the portion subject to the easement and the portion that is not subject to the easement, to determine the value of the easement.
- The enhancement rule. The regulations also require that an appraiser take into account any enhancement in the value of property owned by a related party as a result of an easement contribution, whether or not that property is contiguous with the easement property.

Classifying acceptability

Following review, SFCT will classify each appraisal into one of three tiers of acceptability:

Acceptable. The appraisal seems generally in line with the expected value of the conservation easement or fee title donation and is not missing any essential elements required by the IRS. In

this circumstance, Form 8283 will be signed by SFCT without reservation.

Acceptable, but revisions are suggested. The appraisal is aggressive in its conclusion of value or the appraisal does not adequately address a key element. For example, the appraisal identifies the issue of enhancement as required by the Treasury Regulations, concludes there is no enhancement value to the donor's other nearby property, but provides no basis for this conclusion. In these circumstances, SFCT will share its concerns regarding the appraisal in writing with the donor. After communicating in writing with the donor, and following a documented Board decision, SFCT may still sign Form 8283.

Unacceptable. The appraisal contains any of the following issues: (1) the appraisal is indefensible as to its conclusion of value in light of local land values, (2) the appraisal includes unjustified extraordinary assumptions, (3) the property was recently acquired by the donor and the appraised value is significantly in excess of the donor's cost or adjusted basis, (4) no gift has been made, or (5) the gift described in the appraisal is not the gift received. For example, if a landowner grants a conservation easement in exchange for zoning approval, no gift has been made. If a recorded conservation easement reserves two additional home sites, but the appraisal values the conservation easement on the basis that the property will have only one additional home site, it is an example of appraising something other than the gift received. SFCT will decline to sign Form 8283 unless these issues are satisfactorily addressed.

Form 8283

IRS Form 8283 is required for donors to claim deductions for noncash contributions valued at greater than \$5,000. Form 8283 must be signed by the donee organization, or all donees if more than one. SFCT's signature on Form 8283 does not represent agreement with the claimed value, but as described above, SFCT will only sign Forms 8283 for transactions that meet its review standards. SFCT will complete written a Form 8283 review checklist for all Forms received, and will sign only if all required elements are present.

Attachments to Form 8283

SFCT will advise landowners that the IRS recommends, and in some cases requires, that donors attach the following complete and accurate substantiation documents to all Form 8283 filings:

1. For conservation easement donations, a full supplemental statement (must include a full description of the protected property and conservation purposes; a property address is not adequate). This helps revenue agents who may never have seen a conservation easement. (required)
2. Full qualified appraisal (required for values of \$500,000 and greater for the year of the gift and for any carryover years in which the deduction will be claimed)
3. Copy of recorded deed or easement (or a full and detailed description) (strongly suggested)
4. Accurate and complete baseline documentation report (strongly suggested)

5. Contemporaneous written acknowledgment (acknowledgement letter) (strongly suggested)
6. Executed mortgage subordination (strongly suggested)
7. For carryover contributions, a copy of the original Form 8283 from the previous year should be submitted with the completed Form 8283 for the current year.

Approved on the 26 day of October, 2021



Brant Goodman, Secretary, SFCT