Practice 12A: Funding Land Stewardship

- ❑ The land trust determines the immediate and long-term financial and management implications of each land transaction and secures the dedicated and/or operating funds needed to manage the property, including funds for liability insurance, maintenance, improvements, monitoring, enforcement and other costs. If funds are not secured at or before the completion of the transaction, the land trust has a plan to secure these funds and has a policy committing the funds to this purpose. (See 6G.)

This practice emphasizes the need to review immediate and long-term costs of holding land and to secure operating and/or dedicated funds to carry out the land trust's responsibilities. A land trust should determine the amount of funds it will need to properly care for the land over time. The land trust should then secure these funds, or ensure that it has a steady source of operating income to cover these costs. Specifically restricted funds should be placed in a designated fund or funds (see 6G.) If a land trust does not have adequate funds for the stewardship of its land it should have a fundraising strategy and a board policy committing the funds for this purpose, and be able to demonstrate progress toward meeting the goals of the strategy.

Financing Land Stewardship

A land trust has many factors to consider before deciding to take on property ownership: Does the property meet the land trust's acquisition criteria? Does it contain significant conservation resources and serve the public benefit? Does it contain hazards, pose significant management problems, or is it hampered by limitations such as difficult public access, rights-of-way or unclear title? Is ownership the best way to protect the property, and is the land trust the best owner? These considerations, addressed in previous practices, take the land trust to the point of deciding whether or not to acquire a property.

If all these factors point to a decision to acquire, the land trust must answer one last critical question: Does it have, or can it raise, the financial resources to meet its management responsibilities for the property in perpetuity?

Property that the land trust holds for conservation purposes is a permanent financial liability. It costs the land trust money up front to initiate management, and it takes money every year to monitor, maintain and manage it. Even a land trust that depends heavily on volunteers to manage its property has costs for signs, insurance, any required taxes, etc. Inflation means that it takes *more* money every year to get the work done.

The amount of money required to manage a property varies depending on its size, intensity of management, public use, and other factors. Each land trust must make a commitment to determine what management is needed and to fund the necessary management as long as it holds the property.

Owning land without having the money to manage it not only leaves the individual land trust unable to fulfill its responsibilities, but also can damage the land trust community as a whole. Conservationist Russ Van Herik explains:

> Deeds and easements are pieces of paper that confer responsibility. Your paper is only as effective as your financial ability to quickly and thoroughly prosecute the legal rights granted in the paper. That means you must not buy or accept ownership of property unless you have the means to care for it and fulfill the obligations of ownership. Precedents are crucial—a system of land trusts that gets caught bluffing is dead. ("Financial and Legal Aspects of Land Management," *Exchange,* published by the Land Trust Alliance, Fall 1989.)

Establishing a Dedicated Stewardship Fund

A land trust needs to plan for a permanent, ongoing source of funds for land management. The land trust cannot risk being caught short if it has a bad year or unexpected expenses. Generally, land trusts should not count on raising money for management year-by-year; such money is hard to raise and it is too easy to forgo management funds to acquire another parcel.

The surest way to fund land management over time is with a dedicated fund that is segregated from the operating budget. Some land trusts have separate funds for individual properties; many pool management money for all their properties into a single fund. Usually the principal is not considered expendable; only the interest or income earned can be spent for stewardship. Managed wisely, a dedicated fund provides an ever-increasing flow of money guaranteeing that annual management responsibilities can be met.

The stewardship fund may not be the sole source of funding for management, and it may not actually be managed by the land trust as a separate account. The Little Traverse Conservancy in Michigan, for example, relies on funds from its general endowment fund (of $2 million) and income from some of its properties, along with a small stewardship endowment, to fund its annual management costs. One way or another, however, every land trust needs to know the money will be there, every year and over time, to cover the costs of managing its holdings.

(See practice 6F for a discussion of management of dedicated funds. See also practice 11A, which discusses dedicated funds in terms of easement stewardship.)

Raising Stewardship Funds

Land trusts raise money for stewardship funds in several ways, depending on their circumstances. The methods sometimes vary from project to project.

Asking donors of the land

Often the best source of management funds is the owner, who loves the land most. Land trusts commonly ask donors of land or conservation easements to endow their gifts. Jim Lentowski of the Nantucket Conservation Foundation in Massachusetts says, "Being comfortable with asking people for financial help for land management is a skill that comes with experience and the organization's maturity. Although we're not insistent, we ask some land donors to consider endowing their gifts." Giving the landowner a written policy explaining the land trust's stewardship fund early in the negotiation process often facilitates discussion. Most landowners appreciate knowing up front what is expected from them. If they are unable to contribute to the fund, they might identify other funding sources.

Fundraising at acquisition

In situations where the land trust is paying for the property, it should add an appropriate amount to the total fundraising goal to cover a dedicated fund for long-term management costs. Otherwise, the land trust risks making what Russ Van Herik calls "the ultimate error": raising enough money to buy the land but not enough to take care of it. A well-thought-out, long-term project budget that includes management costs can enhance the land trust's fundraising effort. Increasingly, sophisticated donors (private or governmental) insist on seeing management costs in a budget.

When property is donated and no fundraising is involved, the land trust can still try to raise management costs before the land is given. Russ Van Herik notes:

> When lovely land gets too expensive to own, it is donated. Never accept a gift of land without conditioning its acceptance upon successful identification of a dedicated management fund, perhaps even within a specific number of months…It is the time between the announcement of the willingness to donate and the date of acceptance that stewardship fundraising is compelling and possible: "By giving $500 to the management fund, you will be responsible for causing a $500,000 gift of land."

Collective land trust experience shows it is easiest to raise stewardship funds in conjunction with raising acquisition monies, when trusts can ride the wave of urgency for protection. It is much more difficult to raise money for land management after an acquisition is completed. If the land trust plans to fundraise for stewardship money, it should do so at the time of the acquisition; otherwise the land trust builds a growing time bomb of deferred responsibilities.

Allocating unrestricted funds

Some land trusts have a policy of allocating a portion of all unrestricted donations to the stewardship fund, even if it is only one dollar per gift. Some set aside a percentage of their annual budget every year. These both provide ways to start or supplement an dedicated stewardship fund.

Generating income from the property

Occasionally, stewardship funds can be generated from income-producing activities on the property itself. Buildings on the property may provide an opportunity for generating income (although they may also constitute a substantial liability as discussed later). Income realized from a rental home may more than pay for its upkeep; the tenant may also provide a dedicated full-time monitor for the property. Tom Bailey of the Little Traverse Conservancy in Michigan, which has several buildings that generate income for property management, says, “Rental of real estate by a land trust can be a good business proposition. Don’t be afraid of a good deal!”

The land trust may also be able to lease property for farming or forest management that is consistent with or beneficial to a property’s conservation goals. These practices may preserve grassland or woodland habitat necessary for the survival of specific plant or animal species or may maintain open scenic views. Cooperative extension staff and other land management professionals can help the trust determine what uses are appropriate for the land. Charging fees for public access for active recreation, such as boating or biking, also may be a source of income. (See practice 9F for a brief discussion of management and lease agreements.)

On the other hand, some land managers caution that depending on income from the property can cause a land trust to focus its attention more on the income-producing activity than on the property’s conservation resources. Also, a land trust should not be so dependent on such income that it cannot afford to halt the income-producing activity if necessary.

Determining Stewardship Costs

A land trust should have clear objectives for a property before its acquisition. Ideally, it should have determined if any adjacent lands need to be acquired to assure protection of the property’s resources, and should have outlined a management plan. This plan identifies the resources and processes on the land that are to be protected and promoted, determines what actions to take or avoid, and designates who shall accomplish those objectives.

The management plan provides the basis for creating an income and expense budget for taking care of the parcel in perpetuity. If the land trust does not have a management plan before acquisition, it still may be able to make some good cost estimates. At first, the costs will be an educated guess. As a land trust gains more experience, the accuracy of the projections will improve. (See practice 12C for further discussion of land management plans.)

Land trusts should be hardheaded in calculating stewardship expenses and should not cut the estimate too close. A great strength of land trusts is their ability to get assistance volunteered. But in calculating costs, land trusts should try not to underestimate their need to pay for staff or consulting time on management responsibilities. Coordinating volunteers can take substantial time. Unforeseen needs may arise for specialized consulting help. Even a land trust that has no paid staff may find the administrative burden of stewardship requires some paid assistance. Finally, any land trust may incur unexpected costs, such as legal fees incurred as part of a boundary dispute.

Land trusts must plan for three types of management costs:

- Start-up costs;
- Annual costs; and
- Occasional replacement costs.

Start-up costs
When the land trust first acquires a property, it needs to take some actions immediately. Possible start-up activities include the following:

- Holding a dedication ceremony;
- Contacting neighbors;
- Payment of back taxes and the remainder of current-year taxes (if not exempt);
- Preparing leases;
- Surveying and posting boundaries and hazards;
- Garbage cleanup;
- Conducting natural and cultural resources inventories;
- Locating rare species;
- Fencing;
- Installing gates at trailheads or to block roads;
- Trail and parking area construction;
- Removal of buildings or known hazards;
- Erecting entrance signs;
- Purchasing or preparing maps and aerial photographs;
- Preparing a management plan; and
- Preparing a preserve brochure.

These start-up costs are expenditures that begin transforming the property into a protected area. They may be one-time costs, or occasional costs when gates need reinstalling or management plans need updating.

Annual costs
Most of the land trust's stewardship costs are annual expenses for monitoring and managing the property. In calculating the amount needed for its stewardship fund, the land trust must keep in mind that it needs to generate enough money from interest on its fund to cover these annual costs (as well as additional interest to put back into the fund to at least keep the principal even with inflation). Annual costs might include the following:

- **Monitoring.** The land trust's property should be monitored regularly, according to the needs of a particular site. At a minimum, properties should be monitored annually for trespass or overuse, hazards, vandalism, etc. Most land trusts will want to budget for staff or a consultant's time to do at least annual monitoring and/or periodic aerial photography. Supplemental monitoring may be done by staff or volunteers. Some land trusts may have all monitoring done by well-trained and conscientious volunteers.

- **Maintenance.** Signs, buildings, trails, roads, dams, bridges, walkways, docks, fences, gates, boundaries, registration boxes, and parking areas need to be maintained. Costs may include capital expenses and staff or consultant time.

- **Equipment.** The costs of purchasing or renting and maintaining equipment used in management should be considered.

- **Resource maintenance or restoration.** Depending on the land trust's conservation objectives for the property, a variety of resource management activities may be needed on a recurring basis. These might include control of noxious weeds, removal of exotic species, mowing, prescribed burning, plantings, forest management, maintenance of scenic views, pest control, pond construction, water quality monitoring, farming, or installing nesting platforms.

- **Administration.** There are a number of administrative activities the land trust must undertake as part of its overall stewardship program. These may not be attributable to a particular property, but should be funded by the stewardship fund. These include staff time (if there is a staff) and other miscellaneous costs associated with program oversight, developing stewardship policies, public relations activities that are part of stewardship, maintaining records, annual budgeting, filing tax forms, hiring interns, coordinating volunteers, and costs associated with computerized database management, if applicable.

- **Property taxes.** Each state has different laws on the payment of property taxes by nonprofit organizations. In some states, land trusts have the option of applying for current use classification under farmland, tree growth or open space programs, which greatly reduces their tax burden. Enrollment under these programs often keeps the land on the tax rolls at an equitable level of assessment.

  Some states provide a property tax exemption for land held by land trusts. (Land trusts should seek advice from their counsel about the laws in their state.) In states where such exemption is allowed, land trusts need to determine whether they wish to take advantage of it. Property taxes are often a sensitive issue. Local citizens may see taking property off the tax rolls as a good argument against land conservation. One alternative for the land trust would be to claim exemption and offer the town a donation in lieu of taxes. Such donations may be particularly appropriate where property owned by the land trust benefits from town services such as police and fire protection or waste removal. On the other hand, some land trust board members believe payment of taxes that are not required is a poor use of their charitable funds. Establishing a written policy for payment of property taxes ensures a consistent approach and often facilitates negotiations with local jurisdictions.

- **Insurance.** To protect itself from liability, every land trust should carry liability insurance, called “commercial general liability,” covering each and every property and its structures. The cost of liability insurance varies substantially depending on the use of the property and other factors and may change over time. A land trust should consult its insurance agent to estimate costs. (Land trusts should investigate the group liability insurance offered through the Land Trust Alliance. It is specifically designed for land trusts and is generally less costly than other policies.) (See practice 6I for further discussion of liability and insurance.)

- **Review of leases.** If land or structures are leased by the land trust, the cost of having counsel review and renew the leases periodically should be considered.

Replacement costs

Finally, the land trust needs to consider replacement costs that occur on a periodic (but not annual) basis. These costs might include replacement, repair or maintenance of the following:

- Brochures;
- Trailhead or road barriers;
- Equipment purchase and maintenance;
- Signs and registration box;
- Boundary signs/brushing out boundaries;
- Bridges and walkways; and
- Buildings and other structures.

Replacement costs should be calculated and extrapolated to an annual cost. A sufficient amount should be added to the property’s stewardship fund to generate the required annual return.

Formulas for estimating management costs

Ideally, a land trust completes a management plan for each property before its acquisition and calculates the stewardship costs based on this plan. But sometimes this is not possible. As an alternate or supplemental approach, a land trust may adopt a policy establishing that a standard amount or percentage of the market value be set aside for each property in cases where actual costs cannot be estimated.

Experienced land stewards suggest a standard set-aside might range from 15 to 25 percent of the property’s fair market value. For a property with intensive management, this may not cover all costs. “Twenty-five percent might be adequate for a wooded preserve with little visitation,” says conservationist Peg Kohring. “However, a Minnesota prairie preserve requires active, costly management, and the set-aside for the management fund may be two or three times the amount set aside for acquisition.” On the other hand, for properties with very high market values and few management requirements, these percentages could be high. A land trust might use 20 percent as a baseline set-aside amount, raising or reducing the amount depending on the property’s value and the intensity of management needs.

Fifteen to 25 percent of the market value of a property may seem like a lot of money for basic stewardship, but only the interest from the fund is used to cover stewardship costs, and the land trust must return some of the interest to the principal to keep the fund even with inflation. Land trusts also need to have some buffer in case of special management or legal problems.

Potential High-Cost Management Situations

Stewardship costs can escalate quickly when the land trust accepts properties that require constant or complex management. In such situations, a land trust may decide not to acquire the property. If it does acquire the property, it should plan for the additional management costs. Potentially costly situations include the following:

- **Hazards.** A land trust may confront high costs for initial cleanup, ongoing maintenance and high-risk liability situations if the property has substantial hazards. Situations to watch for include waste dumping, underground storage tanks, uncapped wells, sheer cliffs, caves, and dams.

- **Pre-existing uses.** A land trust may find it costly to control public use or vandalism on properties that have long been used for camping, hunting, all-terrain vehicle use, or high school hangouts.

- **Unclear property rights.** A land trust can become mired in expensive litigation over rights-of-ways, prescriptive uses or town roads that have not been abandoned if it has not done its title work carefully and in advance of acquiring the property.

- **Adjacent land uses.** Difficult management situations or threats to conservation resources may also come from surrounding lands. Troublesome impacts from adjacent lands may include hazardous wastes, incompatible public uses, plans for extensive development, and undesirable commercial land uses, such as mining, intensive forestry or pesticide and chemical use. The land trust may have to go to court to resolve such problems. Securing access to landlocked parcels also may be costly.

Buildings and historic structures
Buildings and historic structures may be assets or liabilities to the trust, depending on their type and condition, and the land trust's abilities to deal with them.

The Connecticut Land Trust Service Bureau, suggests considering the following questions before accepting land with a structure:

- How much repair and maintenance does the structure require? This affects the trust's operational costs, including maintenance and insurance.

- Does the building come with a fund for its maintenance?

- Can the building be rented or sold, with the proceeds going toward stewardship or future land acquisitions? (If the property is donated in the landowner's will, it is a good idea to have the devise language reviewed by the land trust's attorney to be sure the trust is legally able to have the flexibility it wants or needs in the future.)

- Who in the land trust will be responsible for maintaining the building? Will volunteers be relied on for maintenance or will hired services be used?

- Can the building be demolished?

- Can the building be rented or given to another organization that can use and maintain it?

- Can the building be eliminated from the transaction without adversely affecting the negotiations?

Land trusts can cite horror stories about dealing with buildings, but they also have found them beneficial, providing caretaker residences, nature centers and offices. In all instances, land trusts should determine the historic significance of existing structures before making a decision to demolish them. Wesley Ward of The Trustees of Reservations in Massachusetts cautions that uninformed demolition of a significant historic building may harm the land trust's credibility in the community and among its colleagues in preservation. Whether an asset or a liability, a structure involves associated costs that the land trust should carefully weigh before making a commitment to the project.

Links to Other LTA Resources

- Contact the Land Trust Alliance for information on its group liability insurance program, info@lta.org.

Links to Other Helpful Resources

- Center for Natural Lands Management – The Property Analysis Record: Paying for Perpetuity

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