

Memo Re: **Updated Review of Appraisal and Assessment Methods
Concerning "Conservation Easements" in Fluvanna County
and Virginia.**

Date: February 23, 2009

The Fluvanna County Commissioner of Revenue has reviewed the applicable statutes and reached conclusions that will lessen confusion concerning the appraisal of parcels under conservation easements. His actions bring Fluvanna into closer alignment with the Legislative intentions for the long-term encouragement of Conservation Easements.

His conclusions include:

1) In the case of an easement that prohibits subdivision of multiple, adjacent parcels owned by the easement grantor, the easement instrument itself can furnish authority for combining the parcels into a single parcel on the County Land Book/tax map. The contract mass appraisers use a valuation formula that places higher per-acre values on smaller parcels, and add a "homesite" surcharge value to each structure the appraisers deem an independently marketable residence. Although being informed of the parcels being grouped as a single farm and subdivision being prohibited by a recorded easement, the mass appraisers have felt obligated to ignore the easements and apply their formulas independently to every parcel shown in the County Land Book. This has resulted, for example, in a farm comprised of 3 parcels being appraised at several, and higher, per-acre formula values on essentially identical acres, and having multiple residences, though not salable independently because of the easement, trigger multiple "homesite" surcharges. The easement landowners have corrected the zealous applications of the appraisal formula through appeals to the board of equalization, which does recognize the recorded Deeds of Easement as the controlling instruments, and is able to treat the combined parcels as a single large one. Now, the Commissioner of Revenue also accepts

the Deeds of Easement as controlling, and is willing to physically change the County Land Book/tax map accordingly so the mass appraisers can continue applying their formula.

Fluvanna landowners seeking County Land Book/tax map consolidation of multiple parcels joined by a perpetual easement are asked to provide the Commissioner with a written request and a copy of the recorded easement. Easements that prohibit subdivision of the entire property will be appraised as a single unit, subject to only one marketable "homesite" surcharge.

2) The grant of an easement transfers some of the landowner's property rights and values to the easement grantee. The portion of total value thus transferred by an easement is calculated in an appraisal that is required and used by both the Virginia Department of Taxation and the Internal Revenue Service. Either taxing authority may challenge appraisal errors. The appraisal is performed by qualified expert appraisers, in accordance with high standards specified by the IRS Regulations. There is no better or more readily available appraisal by which a Commissioner of Revenue can determine the "percentage of gift" to the easement holder, and divide future County gross appraisals into the portion retained by the landowner, and the portion given to the easement holder that has to be carried on the County Land Book in a tax exempt status.

The procedure in Fluvanna County involves the submission of a copy of the appraisal and the IRS Form 8283 for review by the Commissioner of Revenue, and, upon approval, the inclusion of the fractional proportions in the County Land Book for future reference.

3) County property under "Land Use" at the time of the grant of easement is now recognized as being automatically qualified for continued "Land Use" classification without annual revalidation, and will not face loss of eligibility as a penalty for not filing

annual re-applications.

SUGGESTION:

There is still no convenient, "plain English", guidance available to county appraisers or Commissioners of Revenue regarding the treatment of properties under easement. There is still too little understanding of the laws and their application. There still are many Commissioners of Revenue marching to different drummers, without guidance from the SLEAC, (State Land Evaluation Advisory Council, which publishes advisory information on other land valuation issues for the consideration of Commissioners of Revenue statewide). In the interest of statewide uniformity, I urge SLEAC to produce an outline of issues and statutes Commissioners should consider when dealing with conservation easements.

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