

**Land Trust Alliance Rally: September 2022**  
**Red Flags, Red Lines and Red Ink!**  
**Distinguishing the Good from the Bad and Just Plain Ugly Appraisal Reports!**

**Disclaimer:** This checklist is intended to assist land trusts in reviewing draft appraisal reports that they receive as part of a charitable gift deduction for a donation of a conservation easement. It is a list of questions some of which refer to IRS regulations and prior case law, and others are general questions to assist land trusts in understanding the quality of the appraisal report and the support for the analysis and conclusions within it. It is not intended to be a listing of required elements under either the IRS regulations or the case law. They are questions that may be asked of the appraisal under consideration and depending on the property at issue, some questions may not be applicable at all.

<b>Conservation Easement Appraisal: Land Trust Review Checklist</b>				
<b>Checklist Item No.</b>	<b>Checklist Item</b>	<b>Applicability</b>		
<b>Compliance with General USPAP Requirements</b>		<b>Yes</b>	<b>No</b>	<b>NA</b>
1	Is there a signed "Certification"?			
2	Is there a "Statement of Assumptions & Limiting Conditions"?			
3	Is the appraiser's state license number shown under the signature line?			
4	Are those who provided "significant appraisal assistance" listed in the Certification?			
5	Is there a description of the "significant appraisal assistance" provided somewhere in the report?			
6	Is there a "Scope of Work" description?			
7	Are the appraiser's complete qualifications included?			
8	Is there a description of the appraiser's "competency" to undertake an appraisal of this type of property?			
9	Is there a date of inspection listed or a statement that the property was not personally inspected?			
10	Does the appraisal state it was prepared in accordance with USPAP?			
<b>Compliance with IRS Qualified Appraisal Requirements</b>		<b>Yes</b>	<b>No</b>	<b>NA</b>
11	Does the report state it was prepared "for income tax purposes" to support the charitable donation of a conservation easement?			
12	Is the appraiser's name, address & taxpayer identification number included?			
13	If not, is the name, address & taxpayer ID number of the appraiser's employer included?			
14	Is the date of the charitable donation or expected date of donation included?			
15	Does the date of donation match up with the date of easement recording?			
16	Does the date of value match with the date of donation or expected donation?			
17	Is the date that the appraisal was signed/prepared included in both the text and the Certification?			
18	Is the date the appraisal is signed no earlier than 60 days before the date of donation/recording?			
19	Is there a description of the appraiser's qualifications/competency to appraise a conservation easement?			
20	Is there a "declaration" that because of the appraiser's experience, education, & membership in professional organizations, the appraiser is qualified to appraise the conservation easement on this particular property?			
21	Is there a statement acknowledging the "substantial or gross valuation misstatement" penalties?			

Land Trust Alliance Rally: September 2022  
 Red Flags, Red Lines and Red Ink!  
 Distinguishing the Good from the Bad and Just Plain Ugly Appraisal Reports!

<b>Conservation Easement Appraisal: Land Trust Review Checklist</b>				
<b>Checklist Item No.</b>	<b>Checklist Item</b>	<b>Applicability</b>		
22	Does the summary of the appraiser’s qualifications include background, experience, education, and any membership in professional appraisal organizations?			
23	Is there a detailed description of the “property” including its “physical condition”?			
24	Is there a statement that the purpose of the appraisal is to determine the “fair market value” of the conservation easement?			
25	Is there a definition of “fair market value” and/or “market value” and a statement as to whether the two terms are assumed to have the same meaning?			
26	Is there a summary of the terms and restrictions in the easement agreement including any restrictions on use, sale or disposition?			
27	Is there a description of the “fee arrangement” between the appraiser and the donor of the easement?			
28	Is there a description of the “method of valuation” used?			
29	Does the appraisal arrive at a conclusion concerning the “fair market value” of the conservation easement?			
<b>Compliance with IRS Contiguous Property and “Other Property” Enhancement/Benefit Rules</b>		<b>Yes</b>	<b>No</b>	<b>NA</b>
30	Does the appraisal describe the inquiries made or research conducted to identify all “contiguous property” owned by the donor or the donor’s family?			
31	Does the appraisal “describe” all contiguous property owned by the donor or the donor’s family?			
32	Does the appraisal then value the entirety of the contiguous property owned by the donor or the donor’s family?			
33	Does the appraisal consider the value of the “contiguous property” both “before” as well as “after” considering the effect of the conservation easement?			
34	Does the appraisal describe the inquiries made or research conducted to identify “other property” owned by the donor or s related person?			
35	If “other property” is identified, does the appraisal summarize why it was, or was not, included in the value analysis “before and after” considering the conservation easement?			
36	If no “contiguous property” or “other property” is identified in the appraisal, does the appraisal state that inquiries were made and the appraiser is relying on representations made by others that are reasonably believed to be accurate?			
37	Does the appraisal consider “other benefits” such as cash received in a bargain sale transaction involving the charitable donation of the easement?			
38	Does the final “fair market value” reported in the appraisal reflect any offsetting effects on value from any benefits received?			
39	If the appraisal “identifies” but does not consider the value of all “contiguous” or “other property” is there a clear statement of assumptions or limiting conditions related to the exclusion of consideration of their value in the appraisal assignment?			
<b>Compliance with IRS Syndicated Conservation Easement Rules</b>		<b>Yes</b>	<b>No</b>	<b>NA</b>
40	Does the appraisal contain a statement concerning the involvement of syndicated tax benefits or a donation of syndicated conservation easement?			
41	Does the appraisal include a discussion/analysis of any recent purchase transactions involving the subject property within the 36 months “before” the donation of the conservation easement?			

Land Trust Alliance Rally: September 2022  
 Red Flags, Red Lines and Red Ink!  
 Distinguishing the Good from the Bad and Just Plain Ugly Appraisal Reports!

<b>Conservation Easement Appraisal: Land Trust Review Checklist</b>					
<b>Checklist Item No.</b>	<b>Checklist Item</b>	<b>Applicability</b>			
42	Is the appraised value of the property “before” considering the conservation easement more than 2.5 times the purchase price paid within 36 months prior to the donation of the conservation easement?				
43	Does the appraisal report contain a statement that inquiries were made to the donor concerning the taxpayer’s “basis” in the property and whether the conservation easement has been (or is planned to be) “syndicated” to investors?				
44	Does the appraisal report indicate the results of the inquiries to the donor related to syndication of the conservation easement to investors?				
<b>Compliance with Generally Recognized Appraisal Methods: Highest and Best Use and Discounted Cash Flow Analysis</b>		<b>Yes</b>	<b>No</b>	<b>NA</b>	
45	Does the appraisal contain a definition of “highest and best use”?				
46	Does the appraisal separately consider the highest and best use of the entire property (including any contiguous property) both “before” as well as “after” considering the conservation easement?				
47	Does the appraisal separately discuss and analyze the highest and best use of the property “as improved” and the highest and best use of the land “as if vacant”?				
48	Are each of the four prongs of highest and best use analysis (i.e., physically possible uses, legally permissible uses, financially feasible uses, and maximally productive use) discussed in detail both “before” and “after” considering the conservation easement?				
49	Is there a clear and detailed discussion of any physical limitations on use of the property (e.g., slope issues, soil conditions, vegetation, road access and frontage, property shape or size, water quality, water rights or utility availability issues, etc.) of the highest and best use of the property “before” considering the conservation easement?				
50	Is there a discussion of any existing restrictions of record (e.g., other easements, covenants, long term leases, mineral rights, etc.) on the legally permissible uses of the property “before” considering the conservation easement?				
51	Is there a discussion and analysis of any existing land use restrictions imposed by zoning, planning, wetland, slope, environmental, etc. regulations on the property “before” considering the restrictions imposed by the conservation easement?				
52	If the appraisal assumes a zoning change, is there sufficient support that a change in zoning or subdivision approval is “reasonably probable” in the near future and would be approved by the local zoning and planning authorities?				
53	If some type of subdivision of the property is considered “legally permissible” and “physically possible” before considering the easement, is there any comparison of alternative possible discounted cash flow analyses showing supportable variations in potential lot sizes, prices, development costs, and absorption periods included as part of the analysis of “financial feasibility”?				
54	Is there market support (i.e., supply and demand analysis) in the appraisal for any lot or subdivided parcel pricing and absorption rate included in the highest and best use analysis?				
55	Is there support in the appraisal for development costs used in any discounted cash flow analysis				

Land Trust Alliance Rally: September 2022  
 Red Flags, Red Lines and Red Ink!  
 Distinguishing the Good from the Bad and Just Plain Ugly Appraisal Reports!

<b>Conservation Easement Appraisal: Land Trust Review Checklist</b>				
<b>Checklist Item No.</b>	<b>Checklist Item</b>	<b>Applicability</b>		
56	Does any discounted cash flow analysis included in either the highest and best use analysis or in the valuation section of the appraisal include a delay for the time needed to obtain any zoning, planning, or other development approvals?			
57	Is there a clear and compelling discussion of the effect, if any, of the provisions of the conservation easement on the “before” highest and best use?			
<b>Sales Comparison Approach: Consideration and Analysis of Actual Easement Sales</b>		<b>Yes</b>	<b>No</b>	<b>NA</b>
58	Does the appraisal discuss whether there are actual easement purchases that can be used to directly value the subject conservation easement?			
59	If the use of actual easement sales is rejected, is the support for that conclusion provided in the report sufficient to indicate that no “meaningful or valid comparison” to the subject easement can be made?			
60	If actual sales are used to value the conservation easement, does the appraisal compare and contrast the protections and provisions in those other easement documents to the protections and provisions in the subject easement being appraised?			
61	If the easement purchases used as comparables were by a unit of federal, state or local government, is there sufficient analysis and support for a conclusion that they were negotiated arms-length transactions?			
<b>The Sales Comparison Approach: “Before” Considering the Conservation Easement</b>		<b>Yes</b>	<b>No</b>	<b>NA</b>
62	Does the appraisal identify the “market area” within which a search was conducted for possible comparable sales?			
63	If the sales used to value the property “before” the easement are located at a considerable distance from the subject property, is there an explanation in the appraisal for why sales closer in proximity to the subject property were not used?			
64	Is there a map showing the location of the comparable sales used?			
65	Is there an “adjustment” grid indicating how the prices indicated by the comparable sales were compared to the subject property and analyzed?			
66	Are the comparisons between the comparables and the subject in the adjustment grid shown as “qualitative” in nature (e.g., inferior, superior, similar, etc.)?			
67	If “qualitative” adjustments are made in the adjustment grid, is there a discussion of the basis for each of the qualitative comparisons and how the appraiser arrived at the final conclusion concerning the superiority, inferiority, or similarity of the comparable (as adjusted) to the subject property “before” considering the conservation easement?			
68	Are the comparisons between the comparables and the subject in the adjustment grid shown as “quantitative” in nature (e.g., 10% inferior, 5% superior, similar, etc.)?			
69	If “quantitative” adjustments are made in the adjustment grid, is there a discussion of the basis for each of the quantitative adjustments and how the appraiser arrived at the final conclusion concerning the percentage superior, percentage inferior, or similarity of the comparable (as adjusted) to the subject property “before” considering the conservation easement?			
70	Has the appraiser “weighted” the comparables by giving more “weight” to one or more of the comparables than to others?			
71	Has the appraiser given more “weight” to the comparables requiring the least number or level of adjustment as recommended in IRS Publication 561?			

Land Trust Alliance Rally: September 2022  
 Red Flags, Red Lines and Red Ink!  
 Distinguishing the Good from the Bad and Just Plain Ugly Appraisal Reports!

<b>Conservation Easement Appraisal: Land Trust Review Checklist</b>				
<b>Checklist Item No.</b>	<b>Checklist Item</b>	<b>Applicability</b>		
72	Does the summary of the comparable sales used include the names of buyers and sellers, deed book and page number, date of sale and selling price, amount and terms of any mortgage, assessed value, etc. as discussed in IRS Publication 561?			
<b>The Sales Comparison Approach: "After" Considering the Conservation Easement</b>		<b>Yes</b>	<b>No</b>	<b>NA</b>
73	Does the appraisal utilize easement encumbered sales as evidence of the "after" value of the subject property? If actual sales of easement encumbered property are not used to support the "after" value, what method of valuation has been provided?			
74	Does the appraisal identify the "market area" within which a search was conducted for possible "after easement" comparable sales?			
75	If the sales used to value the property "after" the easement are located at a considerable distance from the subject property, is there an explanation in the appraisal for why sales closer in proximity to the subject property were not used?			
76	Is there a map showing the location of the "after" comparable sales used?			
77	Is there an "adjustment" grid indicating how the prices indicated by the comparable sales were compared to the subject property and analyzed?			
78	Are the protections and provisions in the easements on the comparable sales sufficiently comparable to those in the easement on the subject property to justify their use as comparables?			
79	Are the protections and provisions in the easements on the comparable sales compared to and contrasted with the easement protections and provisions on the subject property?			
80	Are the comparisons between the comparables and the subject "after" considering the easement in the adjustment grid shown as "qualitative" in nature (e.g., inferior, superior, similar, etc.)?			
81	If "qualitative" adjustments are made in the adjustment grid, is there a discussion of the basis for each of the qualitative comparisons and how the appraiser arrived at the final conclusion concerning the superiority, inferiority, or similarity of the comparable (as adjusted) to the subject property "after" considering the conservation easement?			
82	Are the comparisons between the comparables and the subject in the adjustment grid shown as "quantitative" in nature (e.g., 10% inferior, 5% superior, similar, etc.)?			
83	If "quantitative" adjustments are made in the adjustment grid, is there a discussion of the basis for each of the quantitative adjustments and how the appraiser arrived at the final conclusion concerning the percentage superior, percentage inferior, or similarity of the comparable (as adjusted) to the subject property "after" considering the conservation easement?			
84	Has the appraiser "weighted" the comparables by giving more "weight" to one or more of the comparables than to others?			
85	Has the appraiser given more "weight" to the comparables requiring the least number or level of adjustment as recommended in IRS Publication 561?			
86	Does the summary of the comparable sales used include the names of buyers and sellers, deed book and page number, date of sale and selling price, amount and terms of any mortgage, assessed value, etc. as discussed in IRS Publication 561?			
<b>The Cost Approach and the Effect of the Easement on the Value of Any Improvements</b>		<b>Yes</b>	<b>No</b>	<b>NA</b>
87	Are there improvements on the property?			

Land Trust Alliance Rally: September 2022  
 Red Flags, Red Lines and Red Ink!  
 Distinguishing the Good from the Bad and Just Plain Ugly Appraisal Reports!

<b>Conservation Easement Appraisal: Land Trust Review Checklist</b>				
<b>Checklist Item No.</b>	<b>Checklist Item</b>	<b>Applicability</b>		
88	Does the appraisal consider and discuss the effect, if any, of the conservation easement on the value of the improvements?			
89	Is the contributory value, if any, of the improvements considered in the sales comparison approach? This can be especially important in the valuation of easement encumbered ranch properties with improvements.			
90	Are any adjustments to improved sales comparables based on a comparison of the improvements on the comparables to improvements on the subject property fully supported?			
91	Does the appraisal include a cost approach to value of the improvements?			
92	If a cost approach to the value of the improvements is included, is the analysis of remaining useful life and appropriate physical, functional, and external obsolescence factors affecting the value of the improvements detailed and supportable?			
<b>The Income Approach to Value</b>		<b>Yes</b>	<b>No</b>	<b>NA</b>
93	Does the existing property generate income from rent, crops or other sources?			
94	How does the existing (recent history) income/revenue compare to the pro forma income used in the income approach? Is there a discussion and explanation for why they are different?			
95	Has the effect, if any, of the conservation easement on that income productivity potential been considered and discussed in the appraisal?			
96	Has the income productivity of the subject property been properly considered and compared to the income generating potential, if any, of comparable sales used in the sales comparison approach?			
97	If the existing or potential income of the subject property has been “capitalized” into a direct estimate of value, is there sufficient explanation and support for the selection of the capitalization rate used?			
98	If a discounted cash flow income approach is used, is there market support in the appraisal for any lot or subdivided parcel pricing and absorption analysis?			
99	If a discounted cash flow income approach is used, is there support in the appraisal for the development & marketing costs and developer profits included?			
100	Does any discounted cash flow analysis include a delay for the time needed to obtain any zoning, planning, or other development approvals?			
<b>Reconciliation of the Approaches to Value</b>		<b>Yes</b>	<b>No</b>	<b>NA</b>
101	Is there a reconciliation of the results of both the “before” and “after” approaches to value?			
102	If more weight is given to the results of one of the approaches to value than to another, is the reasoning explained and supportable?			
<b>Miscellaneous Items: The Signed Certification, Statement of Assumptions and Limiting Conditions, Hypothetical Conditions, Market Analysis, and Contents of an Addenda</b>		<b>Yes</b>	<b>No</b>	<b>NA</b>
103	Does the appraisal or the appraisal Addenda include a signed and dated Certification of value?			
104	Does the appraisal or the appraisal Addenda include a Statement of Assumptions and Limiting Conditions?			

Land Trust Alliance Rally: September 2022  
 Red Flags, Red Lines and Red Ink!  
 Distinguishing the Good from the Bad and Just Plain Ugly Appraisal Reports!

<b>Conservation Easement Appraisal: Land Trust Review Checklist</b>				
<b>Checklist Item No.</b>	<b>Checklist Item</b>	<b>Applicability</b>		
105	Does the appraisal (and the Statement of Assumptions and Limiting Conditions) contain a statement that a hypothetical condition has been used in either the estimate of “before” easement or “after” easement value?			
106	Does the appraisal contain an Addenda?			
107	Does the Addenda contain a copy of the signed and recorded conservation easement?			
108	If the appraisal was prepared before the acceptance and recording of the conservation easement, does it contain a copy of the latest draft of the easement on the date the appraisal was submitted?			
109	If the appraisal was prepared on the basis of a draft easement, are the provisions in the final signed and recorded easement sufficiently comparable to those in the draft easement so that the appraised value conclusion is still supportable?			
110	Does the appraisal Addenda include a copy of the baseline condition report?			
111	Does the appraisal contain a detailed statement of the qualifications of the appraiser?			
112	Does the Addenda (or the appraisal itself) contain a detailed description and analysis of the market area in which the property is located?			