

Appraiser Opportunities: Land Conservation Easements

Sponsored by Virginia United Land Trusts (VaULT)

May 16, 2024

Introduction

In this discussion, we will explore the criteria for:

- Appraisal industry trends and opportunities
- Compliance with Virginia (VA), the Internal Revenue Services (IRS) and Internal Revenue Codes (IRC)
- Completion of conservation easement appraisals based on the Uniform Standards of Professional Appraisal Practice (USPAP)

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Appraisers (U.S. vs. VA)

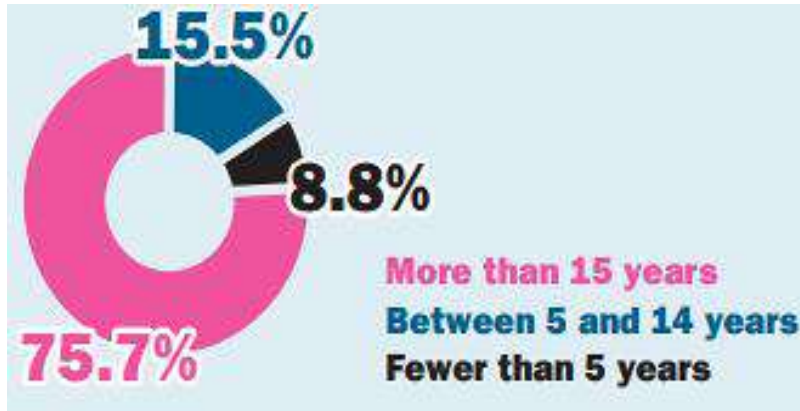
Industry trends and opportunities

Qualified real estate appraisers assist with the:

- Reliability of a conservation easement transaction
- Required competent appraisal reports
- Landowners, attorneys, and trusts, private and public agencies rely on qualified appraisers to help preserve public trust.



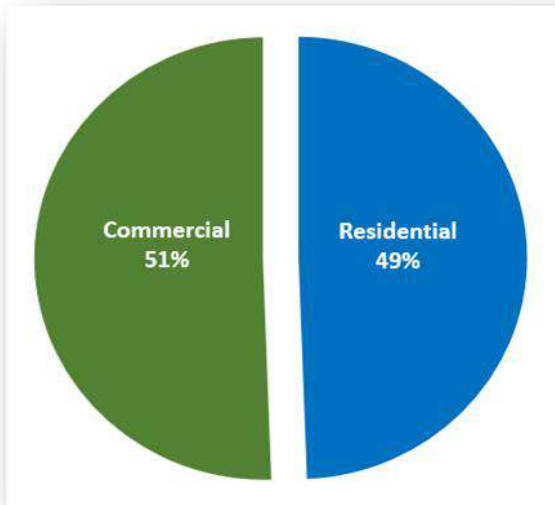
Time in Valuation Profession



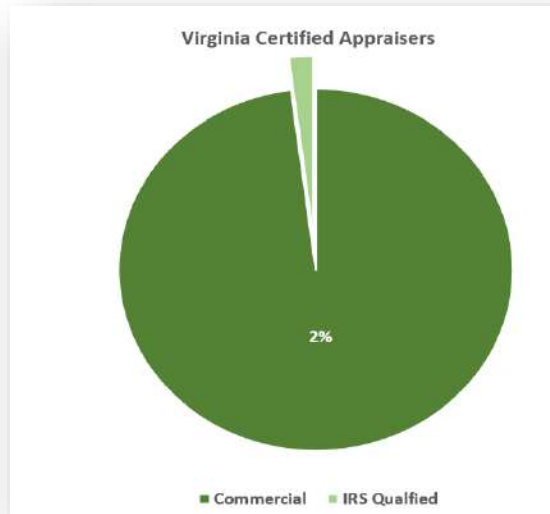
Total U.S. Appraisers



Virginia Appraisers



Certified Commercial



NOTE: There may be experienced Virginia certified general real estate appraisers (CGREA) who are qualified and have not been included in these calculations.

Sources: Virginia Department of Occupational Regulation (DPOR), Appraisal Institute, and American Society of Farm Managers & Rural Appraisers

The future of appraisals lies in analytics, how to deliver and package those analytics, and how to support and connect the dots to a value opinion. Appraisers that can do that really will have a bright future.



Johnie White

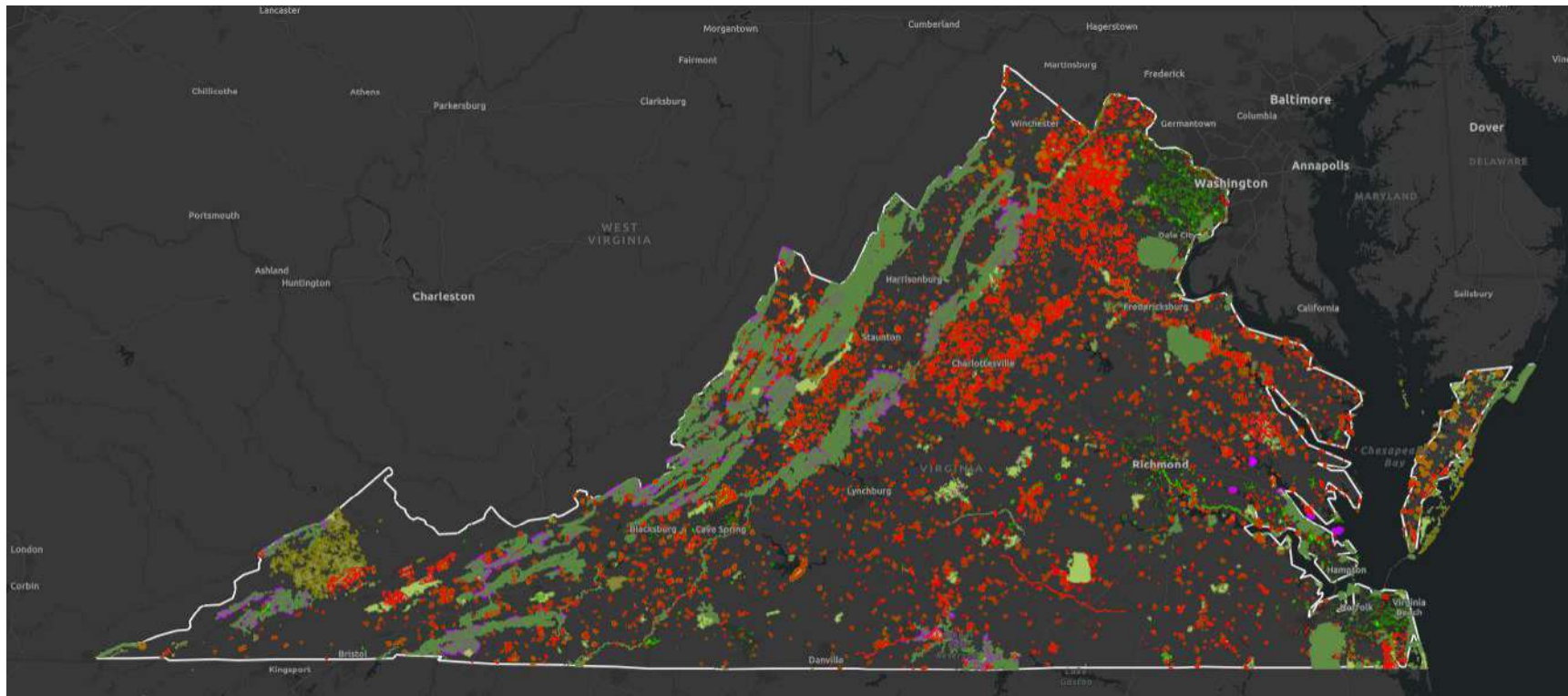
CEO/EVP, American Society of

Appraisers



Virginia agencies





Source: Virginia Tax, DCR, DOF, VOF, and The Nature Conservancy (TNC)

PRIVATE SECTOR

PUBLIC SECTOR



Many private and public organizations, and their experts, help conserve land in Virginia.

For more information:
[Land Conservation Organizations in Virginia](#)

Appraisal Standards and Advisory Opinions

Uniform Standards of Professional Appraisal
Practice (USPAP)

Criteria	Virginia	USPAP ³	UASFLA ⁴	IRS/Dept. of Treasury ⁵
Appraisal Rule	State	State	Federal	Federal
Inspections (RP and Sales)	No	No	Yes	Undisclosed
Inspection (as part of Scope of Work)	Yes	Yes	Yes	Recommends
Intended Use/User	Yes	Yes	Yes	Undisclosed
Property restrictions	Yes	Yes	Yes	Yes
Real property ¹	CE	CE	Larger Parcel	The property rights appraised comprise the fee simple interest in the subject property.

Criteria	Virginia	USPAP ³	UASFLA ⁴	IRS/Dept. of Treasury ⁵
Restricted report acceptable	Yes	Yes	No	Undisclosed
Allows restricted use sales (CE) ²	Yes	Yes	No	Yes
Considers parcel benefits	Yes	Yes	Yes	Yes
Disclosed dates (as part of Scope of Work)	Yes	Yes	Yes	Yes [aka Appraisal <60 days prior to date of contribution]

Sources

1. Real Property (RP) [aka subject property]
2. Conservation Easement (CE)
3. Uniform Standards of Professional Appraisal Practice (USPAP)
4. Uniform Appraisal Standards for Federal Land Acquisition (UASFLA) [aka Yellow Book]
5. Internal Revenue Service (IRS) and Internal Revenue Code (IRC) § 170(f)(3)

Real property

Interests, benefits and rights inherent in the ownership of real estate.

Bundle of Rights

Legal rights supplement ownership of a property.

1. Ownership
2. Control
3. Transfer



In developing a real property appraisal, an appraiser must

- ▶ Reconcile the quality and quantity of data available and analyzed within the approaches used
- ▶ Reconcile the applicability and relevance of the approaches, methods, and techniques used to arrive at the value conclusion(s).



Each written or oral real property appraisal report must convey:

- ▶ an accurate appraisal that is not misleading
- ▶ sufficient information for the intended users to understand the report
- ▶ disclose in the assignment all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions



Each written report must state which option is used:

- ▶ Appraisal Report (aka Narrative Appraisal)
- ▶ Restricted Appraisal Report

Non-Residential Restricted Appraisal Report

<https://appraisalfoundation.sharefile.com/share/view/sbce4db08c6d49739>



Following the Competency Rule

- ▶ Disclose lack of knowledge and/or experience
- ▶ Take all steps necessary to complete assignment competently
- ▶ Describe, in the report, the lack of knowledge and/or experience and steps taken for assignment competence.



Federal and Virginia codes

Federal and State regulations



Conservation Easement Audit Technique Guide

- ▶ [Introduction to Conservation Easements: Statutory Requirements & Qualified Conservation Contribution](#)
- ▶ [Conservation Easement Audit Technique Guide](#)
- ▶ [Internal Revenue Service | An official website of the United States government \(irs.gov\)](#)

Virginia codes concerning conservation easements

[Code of Virginia Code - Chapter 10.1. Virginia Conservation Easement Act](#)

[§ 10.1-648. Acquisition of lands, easements, and rights-of-way](#)

[§ 10.1-1009. Definitions.](#)

[§ 10.1-1010. Creation, acceptance and duration.](#)

[§ 10.1-1700. Definitions.](#)

[§ 10.1-2202.2. Preservation Easement Fund](#)

[§ 54.1-2011. Necessity for license.](#)

[§ 54.1-2013. General powers of Real Estate Appraiser Board; regulations; educational requirements for licensure.](#)

[§ 58.1-512. Land preservation tax credits for individuals and corporations \(\[virginia.gov\]\(http://virginia.gov\)\)](#)

[§ 58.1-512.1. Determination of fair market value of donation.](#)

[§ 58.1-513. Limitations; transfer of credit; gain or loss from tax credit.](#)

[§ 64.2-108. Power granted to personal representatives and trustees to donate conservation or open-space easements](#)

[§ 58.1-339.10. Riparian forest buffer protection for waterways tax credit.](#)

[Chapter 10.2. Virginia Land Conservation Foundation](#)

Appraisal advisory and resources

Criteria for approval and education

<u>Weight</u>	<u>Score</u>	<u>% of Overall Score</u>	<u>LPC Requirements</u>	<u>Description</u>
10	9	90%	<u>GENERAL INFORMATION</u>	
			Date of Review	4/15/2024
			Reviewer	Lore DeAstra, CGREA
			Subject	CE
			DCR Final Verification	N/A
			LPC-1	Yes
			8283	No
			Appraiser's Declaration and Affidavit (§ 58.1-512.1C)	Yes
			Qualified Organization	Yes
			Date Easement Filed	Yes
			Conservation Easement	Yes
			Conservation Purpose	Yes
			Baseline Documentation Report	Yes
			Restrictions	Yes
			Perpetual Easement	Yes
			Name of the Appraiser	Yes
			Signed certification	Yes
			Appraisal Date <60 days prior to the recorded date	No
			Appraisal Report <90 days prior to the recorded date	No
			Effective Date of Appraisal	Yes
			Date of Appraisal Report	Yes
			Inspection Date	Yes
			Funding available at time of Advisory	N/A
			Interest Appraised (Fee Simple, etc.)	CE
			Interests remaining to previous/current Landowner	None
			Area Map	Yes
			Photographs of the Subject	Yes

<u>Weight</u>	<u>Score</u>	<u>% of Overall Score</u>	<u>LPC Requirements</u>	<u>Description</u>
10	9	90%	<u>SITE/IMPROVEMENTS</u>	
			Property Location	Yes
			Property Description	Yes
			Acres	Yes
			Type of Parcel	Yes
			Excess land identified/described	N/A
			Access	Yes
			Topography	Yes
			Proposed Use	Yes
			History (Listing and Sale Details for the past 5 years)	Yes
			Purpose of the Appraisal	FMV for CE
			Intended User	Donor
			Scope of the Appraisal	Yes
			Use of the RE as of the Date of Appraisal	Vacant
			Extraordinary Assumptions/Hypothetical Conditions	None
			Permit history (including applications & results)	N/A

<u>Weight</u>	<u>Score</u>	<u>% of Overall Score</u>	<u>LPC Requirements</u>	<u>Description</u>
30	20	67%	MARKET ANALYSIS	
			Definition of Market Value	Yes
			Neighborhood Description	Yes
			Improvement Description	N/A
			Zoning (Present and Future, based on the Comp Plan)	Yes
			Riparian Rights (Flood, RPA, RMA, Wetlands, etc.)	N/A
			• Property Productivity Analysis Physical, Legal and Location Attributes	Yes
			• Market Delineation Competitive Market Area	Yes
			• Demand Analysis Demand Segmentation, Historical Growth & Demand Drivers	No
			• Supply Analysis Existing, Under Construction and Proposed Competition	No
			• Interaction of Supply and Demand Competitive and Residual Demand	No
			• Forecast Subject Capture Reconciliation of Inferred and Fundamental Forecasts	No

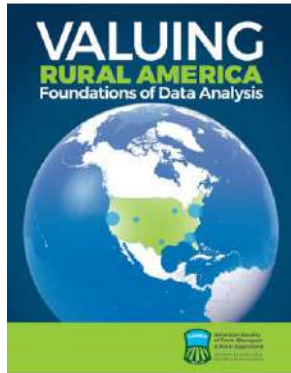
50	40	80%	<u>HIGHEST AND BEST USE + VALUATION + RECONCILIATION</u>	
			Highest & Best Use "Before" Easement	Yes
			Highest & Best Use "After" Easement	Yes
			Marketing/Exposure Time	Yes
			Cost Approach	N/A
			Income Approach	N/A
			Subdivision Approach	No
			Sales Comparison Approach	Yes
			Analysis of Sales (<3 Yrs from date of appraisal. Sales Analysis USPAP SR 2-2(a)(ix), 2-2(b)(x), and 2-2(c)(ix))	Yes
			Reconciliation	Yes
			Assessed Value	\$2,500,000
			Before Value	\$3,200,000
			After Value	\$2,000,000
			Easement Value	\$1,200,000
			Difference in Assessed Value vs. Before Value	78%
			Enhancement	None known
100	78	82%	<u>Recommendation</u>	<u>Conclusion</u>
			Approve	Approve

- Acceptable >90%
- Approval, with Adjustments >75%
- Concerns regarding Approval >70%
- Not Recommended for Approval <70%

All information provided is for informational purposes.
 Any similarity to an actual LPC application is coincidental.



American Society
of Farm Managers
& Rural Appraisers



Digital
versions
available

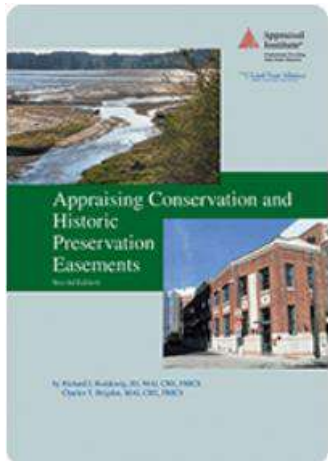
Valuation of Conservation Easements and Other Partial Interests in Real Estate (A420)

Hands-on 3-day seminar, which addresses principles and procedures to value partial interest within the bundle of rights.

Overview of the differences between USPAP, Yellow Book, and IRS requirements and their application to partial interest valuations.

Hours: 22 classroom + 2-hour exam

Attendance: Days 1-3: 8 am – 5 pm



Valuation of Conservation Easements is an advanced course designed for general certified appraisers who understand the methodology in the approaches to value. Over 4 days, conservation easement valuations are explained in a variety of situations, including:

- conventional appraisals,
- appraisals required to comply with the Yellow Book,
- and appraisals involving non-cash charitable contributions that are required to comply with IRS standards.

Case Studies

Typical applications

Application by the previous owner

- Transaction: Acquisition
- Intended Use: County park
- Intended Users: County administration
- Property rights appraised: Fee simple
- Interim use: Open space
- Report: Narrative appraisal
- Deed: Special warranty



Application by the current owner

- Transaction: Donation
- Intended Use: City park
- Intended Users: City residents
- Property rights appraised: Easement
- Interim use: Open space
- Appraisal: Restricted report with addendum
- Deed: Gift in perpetuity



Application by the broker

- Transaction: Land Trust
- Intended Use: Farm
- Intended User: Lender
- Property rights appraised: Fee simple
- Interim use: Farm and open space
- Appraisal: Restricted report with addendum
- Deed: Gift in perpetuity



Sometimes we see this
this



The donor sees



Standards Rule 1-3(b): When necessary for credible assignment results in developing market opinion, an appraiser must develop an opinion of highest and best use.

... or we see this



The donor presents this



A baseline documentation report (BDR) is required in addition to the appraisal for each application, regardless of values over \$5,000.

This documentation may include:

- ▶ Map of the area drawn to scale
- ▶ Survey
- ▶ Topography
- ▶ Soil
- ▶ Improvements and vegetation
- ▶ Land use history
- ▶ Distinct natural features
- ▶ Aerial and on-site photographs



§ 58.1-512. Land preservation tax credits ...

- ▶ Audit any credit claimed during the statutory time limits.
- ▶ Disregard appraisals found to be fraudulent.
- ▶ Refer appraisers to the Virginia Real Estate Board for disciplinary action.
- ▶ Disallow appraisals signed by appraisers who have falsely or fraudulently overstated the value of the contributed property.





**Land is the only
thing that can't fly
away.**

Anthony Trollope

Land Preservation Tax Credit Unit

P.O. Box 565

Richmond, Virginia 23218

- ▶ Steve Klos, Director Property Tax Unit
- ▶ Richard Tyree, Credit Unit Supervisor
- ▶ Diane Johnson, Policy Planning Specialist
- ▶ Lore DeAstra, Land Conservation Tax Credit Analyst

Thank You!



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Land Preservation Tax Credit Analyst

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