

THE LAND TRUST FOR SANTA BARBARA COUNTY

Policy on Conflict of Interest, **Board Compensation & Insider Transactions** *(Amended by the Board of Trustees November 12, 2012)*

The effectiveness of the Land Trust for Santa Barbara County depends upon maintaining the highest level of credibility, confidence, and trust with the communities it serves and all parties with whom it works. All persons associated with the Land Trust are reminded that the decisions and activities of the Board of Trustees and staff, whether or not addressed in this policy, are governed by an overriding requirement of honesty, good faith, and fiduciary responsibility to the organization.

The Land Trust will seek to avoid or disclose and properly manage any conflict of interest that may arise in its operations or transactions, following its corporate Bylaws, applicable federal and state law, and the policies and procedures below. Each board and staff member will be provided a copy of this policy at the time they join the organization.

I. CONFLICTS OF INTEREST

Definition of Conflict of Interest

A conflict of interest may arise when Land Trust “insiders,” including board, staff and Advisory Council members, substantial contributors and independent contractors, are in a position to benefit financially (or create a benefit to a family member, business or other organization with which they are associated) from decisions made by the organization. An insider may, by virtue of their position or access to information not available to outside parties, exert influence on decisions that affect their own financial interests. For example, conflicts of interest may arise when an insider is party to a land or financial transaction of the Land Trust; or owns property encumbered by a conservation easement held by the Land Trust; or serves on the board or staff of a foundation or corporation that provides substantial funding to the Land Trust.

A conflict of interest may also exist in situations in which there is an appearance that a person is utilizing, for his or her own benefit, inside information that is proprietary to the Land Trust; is acting in his or her own interests rather than the best interests of the Land Trust; or is receiving favorable treatment because of his or her affiliation with the organization.

The Internal Revenue Code defines persons as having a conflict of interest if they, at any time during a five-year period leading up to a transaction, were in a position to exercise influence over the affairs of the organization. Our non-profit tax exemption requires that the organization be “operated exclusively for charitable purposes,” and that “no part of the net income may inure ... to the benefit of any private shareholder or individual.”

General Guidelines

All persons shall avoid any conflict of interest involving their duties to the Land Trust and any other interest or organization to which they have a duty, or any other activity in which they are financially or otherwise interested.

It is expected that persons subject to this policy will conduct themselves honestly and fairly in dealing between themselves and the Land Trust. Such persons shall not use their position or knowledge gained during their association with the Land Trust for their private benefit nor to obtain an unfair advantage over any aspect of their dealings with the Land Trust.

Obligations of Insiders

Each board or staff member or advisor or other insider covered by this policy is obliged:

1. To disclose to the board, Executive Director, or committee of the board on which he or she serves, the existence of any actual, potential, or perceived conflict of interest.
2. To abstain from discussing with board members, employees, or committee members any issue, matter, or transaction in which he or she has an actual, potential, or perceived conflict of interest unless specifically asked by the board or a committee to give information on the issue, matter, or transaction.
3. To absent himself or herself from board and committee discussions on any issue, matter or transaction involving a conflict of interest, unless requested by the board or committee to give information on the issue, matter, or transaction.
4. To abstain from voting on any such issue, matter, or transaction.
5. When requested by the board, to resign from the Board of Trustees, advisory council or committee until such time as the matter giving rise to the conflict of interest has been resolved. When, in the opinion of the board president, the matter has been sufficiently resolved, the director may be invited to rejoin the board, advisory council or committee.

Obligations of the Board of Trustees

When a transaction, contract, or project of the Land Trust involves an actual, potential, or perceived conflict of interest with an insider:

1. The Board of Trustees may approve such transaction, contract, or project only if it specifically finds that:
 - a) The transaction, contract, or project is fair and benefits the Land Trust and its objectives; and,
 - b) The transaction, contract, or project is approved with the board's full knowledge of its financial or other benefit to the insider who has the conflict of interest; and,
 - c) When the insider is a trustee, the trustee did not participate in the vote approving the transaction, contract, or project and was, in fact, absent both during the discussion of the transaction, contract, or project and when the board voted on it; and
 - d) A more advantageous arrangement could not have been obtained with reasonable effort under the circumstances.

2. When warranted by the nature and magnitude of the conflict of interest, the Board of Trustees shall request that a conflicted member of the board, advisory board, or other committee resign.

II. BOARD COMPENSATION

General Guidelines

Members of the Land Trust's Board of Trustees serve as volunteers and are not compensated for their service. They may be reimbursed upon written request for their out-of-pocket expenses made in furthering the purposes of the organization, such as travel and lodging, conference registration fees, and purchase of items used for fundraising or other events. Reimbursement will not be paid for travel or lodging within Santa Barbara County.

The corporate Bylaws of the Land Trust require that not more than forty-nine percent (49%) of the persons serving on the Board of Trustees at any time may be compensated by the organization for services rendered to it within the past twelve (12) months, or be related to any person compensated by the organization (Article VIII, Section 4).

From time to time, the Land Trust may find it advantageous to engage members of the board as paid professional contractors or consultants. If such a situation arises, the Board of Trustees will be fully informed, evaluate the potential for conflict of interest, and approve of the contract in advance.

Contractual Arrangements

To avoid the potential for or appearance of private inurement or self-dealing, if a member of the Board of Trustees is to be compensated for his or her service, then the full Board of Trustees shall act, in the absence of the member to be compensated, to approve the business arrangement only if the following findings are made and documented in the board minutes:

1. The board finds that an arrangement more advantageous to the Land Trust cannot be obtained with reasonable effort under the circumstances. This may be done by seeking multiple bids or quotes for the same work from qualified individuals or companies providing similar service; or by thoroughly investigating the hourly or daily rates for similar service available in the local market.
2. The board approves a written contract outlining the term, compensation and required deliverables, following the Land Trust's model contract and standard business procedures.
3. The board has discussed and approved of the contracting arrangement, and is confident with the Executive Director's willingness and ability to exercise independent judgment and ensure timely and quality service, as he or she would with any outside contractor, without regard for the person's status as a member of the board.
4. Engaging a member of the board in a professional capacity will not create a perception in the community that will be detrimental to the Land Trust.

III. TRANSACTIONS WITH INSIDERS

General Guidelines

The Land Trust may decide to engage in land, easement or other financial transactions with insiders, defined as board, staff and advisory council members, substantial contributors and independent contractors, or with a family member, business or other organization with which they are associated. Examples of such transactions include purchasing or accepting donation of land or a conservation easement on an insider's property; and the resale of real property or another marketable asset such as a vehicle or work of art to an insider.

In any such case, the Land Trust shall follow its conflict of interest policy; document that the proposed project or transaction is consistent with the Land Trust's mission; follow its standard project approval and transaction procedures; and ensure that no impermissible private benefit or private inurement occurs.

Procedure and Approval

The Board of Trustees must be fully informed of the nature and terms of proposed transactions with an insider before any binding commitment is made by the Land Trust, and the transaction may proceed only if the following findings are made and documented in the board minutes:

1. The nature of the transaction is consistent with the mission and adopted policies of the Land Trust and supports the organization's objectives.
2. If the transaction involves the purchase, donation or sale of land or a conservation easement, the public conservation benefit of the transaction is clear and significant, and the project has been evaluated by the Land Committee using the adopted project selection criteria.
3. The Land Trust is paying no more than fair market value if acquiring land or a conservation easement, or is receiving at least fair market value when selling land or another marketable asset to an insider. For all land transactions, and for the sale of any marketable asset valued at \$5,000 or more, an independent appraisal by a qualified appraiser has been prepared and reviewed by the Finance Committee and the Land Trust general counsel.
4. For the sale of any real property, or any marketable asset with an estimated value of \$5,000 or more, the Land Trust has marketed the property or asset widely to prospective buyers and finds that the insider's offer is the most advantageous to the organization.
5. For the purchase or donation of a conservation easement, the terms of the easement are substantially similar to other easements the Land Trust holds on similar land, and there is no significant deviation from the Land Trust's standard easement provisions related to monitoring, enforcement or other treatment of the landowner or recourse available to the Land Trust.
6. The payment of project expenses, which typically are shared by the Land Trust and the landowner, including an adequate Stewardship Fund contribution, are being handled in a manner similar to other comparable Land Trust transactions.