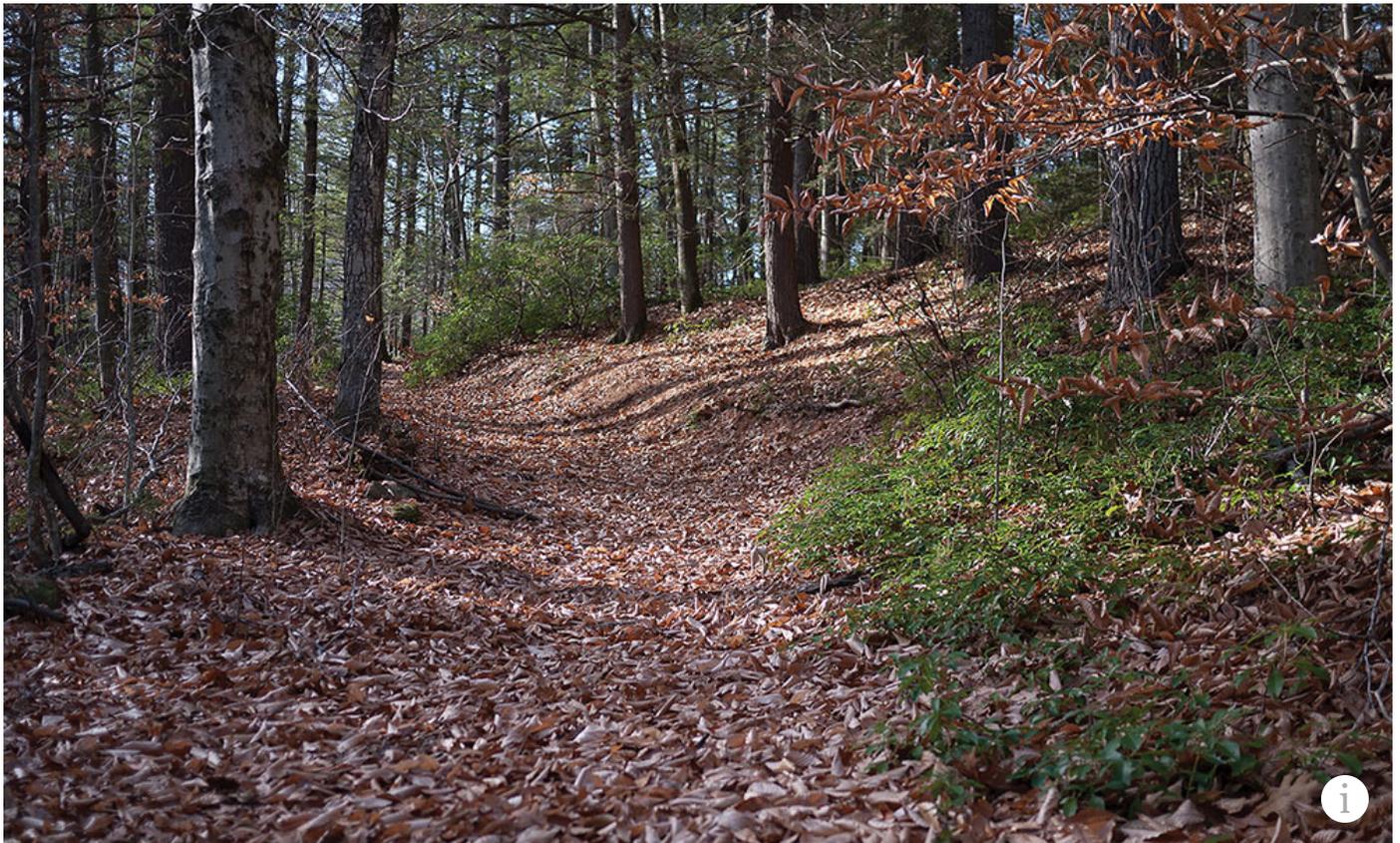


APPRAISERS WANTED

# For Land's Sake

Opportunities abound for conservation easement valuation work — but where are the appraisers?

by Suchi Rudra



**At the Land Trust Alliance conference** in Providence, Rhode Island, this past September, one of the most popular workshops delved into the world of conservation easement valuation. Appraisers, LTA members and attorneys filled the room to hear from Robert Wells, senior vice president at JLL Value and Risk Advisory in Milwaukee, and two of his colleagues, Dick Roddewig, JD, MAI, and Margo LaClair.

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Courses and seminars in this niche area of appraisal are in high demand due to a surge of opportunities in conservation easement valuation. But this surge has also highlighted the lack of specialized

appraisers — those whose experience, education and membership in professional organizations qualifies them for such assignments — to handle the flood of work.

"People in the breakout rooms were saying, 'How do we find more appraisers? How do we encourage appraisers?'" Wells says. "We've had people reach out to us after our presentation, asking, 'Can we go through the Appraisal Institute or other organizations? Can we do some further education to promote people getting into this type of appraisal work?'"

While tax deductions for conservation easements have been around for more than 50 years, the space changed considerably in August 2022 with the passage of the Inflation Reduction Act. Thanks to this law, more than \$66 billion is being allocated through 2026 toward voluntary private land conservation and solutions that address the challenges of climate change. The funds have been ramping up each year, with the highest level of funding to come in 2026.

This includes \$20 billion for the conservation area of the Farm Bill. Lori Faeth, senior government director at LTA, adds that appraisers should especially be aware of the \$1.4 billion going toward the Agricultural Conservation Easement Program and the \$4.95 billion for the Regional Conservation Partnership Program.

The Inflation Reduction Act also provides funding for other programs that use easements and land conservation, including:

- \$3 billion to the Environmental Protection Agency for environmental and climate justice block grants to help reduce greenhouse gas pollution and/or mitigate climate risks in disadvantaged communities.
- \$2.6 billion to the National Oceanic and Atmospheric Administration for coastal zone management grants for the conservation, restoration and protection of coastal and marine habitats.
- \$700 million for the U.S. Forest Service's Forest Legacy Program.

There's also an effort to incorporate the remaining Farm Bill conservation funding (currently about \$13 billion) into baseline funding for the next Farm Bill, which would mean the funding would carry forward for years to come, although it might be allocated differently.

~~Of course, the Trump administration's government efficiency efforts may slow down some of the~~  
direct federal funds, but for now, the conservation tax incentive program has broad bipartisan support.

In addition, land trusts and landowners need appraisers who can assist with a range of conservation projects.

## Specialized appraisers are scarce

This massive amount of funding comes at a critical time, and sounds like pretty good news.

"We are losing working land and conservation lands at a really alarming rate, just because of the build-out for infrastructure to support a clean economy, to support a new economy," says Faeth.

But the problem is that the dearth of specialized appraisers has been slowing the ability of landowners to take advantage of this spike in funding, and in some cases creating a backlog.

"It's to the point that in some parts of the country, transactions that the land conservation community and the federal government want to see happen are being delayed," says Faeth. "And when you delay a real estate transaction, you never know what can happen. The longer these transactions extend in time, things can happen that derail them — the owner changes their mind, the funding source goes away, the person dies. You're jeopardizing really important conservation projects."

In Massachusetts, which boasts 140 land trusts, the highest number by state after California, the situation is dire. Dave Rothstein, land protection specialist at the Massachusetts Audubon Society, says the scarcity of qualified appraisers is resulting in delayed or failed projects "because we can't get the due diligence done on time to meet funding deadlines, or because property owners grow impatient with the timing."

Some federal agencies are now doing in-house appraisals or have in-house appraisers review appraisals. The U.S. Department of the Interior should get a boost from the recently enacted Accelerating Appraisals and Conservation Efforts Act, which aims to increase the pool of appraisers available to the department by allowing practitioners who carry a certified general credential in one state to perform appraisals or other valuation services in any other state if the services fall under the department's authority. [Read more about the AACE Act on page 12.] The Natural Resources Conservation Service, an agency of the U.S. Department of Agriculture, has tripled the number of appraisers they have at the national level — "which means they now have three," Faeth notes.

While one might argue that the scarcity of appraisers is a result of valuation professionals retiring or moving on to other types of work, there are additional reasons.

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Conservation easement work involves significant and thorough analysis, which translates to significant time and commitment on the part of the appraiser. Further, some clients may not realize that the costs of doing business as an appraiser have increased in recent years.

In 2015, a federal conservation use and tax incentive was permanently authorized, creating provisions to make it more meaningful for lower-income landowners. But a handful of bad actors including land trusts, tax promoters, attorneys and accountants figured out how to abuse this incentive, which Faeth refers to as a "really critical conservation tool" that has helped preserve about a million acres of land annually.

Basically, the scheme worked like this: Someone would acquire a parcel of land for \$1 million and then sell it to a partnership for \$5 million. The partnership would promote it as an investment opportunity to accredited investors — incredibly wealthy people — who could get a return on their investment — 4%, 5% and at times up to 10% of their initial investment — through the tax code by placing a conservation easement on the land.

To put this into perspective, not many appraisers were involved: A handful of appraisers did the bulk of valuations for these abusive transactions and are now being held accountable, either through the tax court or the criminal justice system.

To remove further possibility of abusing the system, LTA and appraisal entities including the Appraisal Institute worked together with Congress for almost five years to pass the Charitable Conservation Easement Program Integrity Act in 2022, a law that removes the incentive to engage in this type of fraud. And it's already working.

However, Faeth says that the coalition may have been "a little bit of a victim of their own success" in their efforts to stem the tide of abusive valuations, leaving some in the appraiser community wary of potential liability issues and of increased scrutiny from the IRS on conservation easement work. But she emphasizes that the idea of this work as risky is simply not true.

"Some real estate appraisers have seen all this play out, and it's caused them to believe that this is a risky proposition, doing a conservation easement valuation or valuation of a federally funded conservation project," she says. "But in reality, this is no more risky than doing any other type of valuation for charitable gift purposes. It *is* really risky if you want to do a fraudulent appraisal and you're inflating the valuation to 10 times what it's worth, because the IRS is paying attention."

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## Benefits of the job

With critical conservation dollars at stake, people like Rothstein are trying hard to communicate the various angles and benefits of this highly in-demand job, including its philanthropic element and financial rewards.

"It might be that someone doesn't know the role they can play, or how it might intersect with their interests. But conservation easement valuation work could be a good fit for people who are outdoorsy or have a conservation ethic," says Rothstein.

Out of the 20 or 30 people who attend Massachusetts Audubon Society conservation easement valuation trainings, three or four will call the office later to talk and ask about how to get involved, Rothstein says.

"I think our role is to make it as digestible as possible and to be welcoming. We consider our appraisers a really important part of our team. So we want to extend ourselves, provide the necessary details and backgrounds so they feel comfortable operating in our arena, and understand what their constraints or concerns may be in doing the work. But really it's about having an open door to those conversations," Rothstein says.

## Getting educated

As some experts keep pointing out, land appraisals aren't more complex than other types of valuation work — they're just different.

"Appraising conservation easements — there's nothing special about it, other than you have to appraise the property twice: once without an easement and again with the easement. And it is the difference between the valuations that is ascribed to the partial interest. I would say what has changed is the landscape, not the methodology," says Wells, who belongs to a group whose members have been teaching and publishing on conservation easement valuation for 20 years.

For those wanting to gain demonstrated education, conservation easement valuation training programs are offered by both the Appraisal Institute and ASFMRA, the American Society for Farm Managers and Rural Appraisers. Both organizations also offer courses in the Uniform Standards for Federal Land Acquisition, or "Yellow Book," which is commonly required in appraisals for federally funded programs like the Forest Legacy Program. [For AI training details, visit

[appraisalinstitute.org/education/search/valuation-of-conservation-easements.](https://appraisalinstitute.org/education/search/valuation-of-conservation-easements.)]

Last year, LTA introduced a pilot program in New England and plans to expand the program to either the mid-Atlantic or Southeast states. It is also working with various AI chapters to increase the number of qualified appraisers.

"There's been a pronounced need for more education, so we are creating seminars and courses to present at conferences and try to fill that hole a little bit," says Wells.

For those who are ready to take the leap into this area, one resource to start with is the second edition of *Appraising Conservation and Historic Preservation Easements*, a joint publication of LTA and the Appraisal Institute released in 2020. It was cited by the U.S. Tax Court as "*the* textbook" on appraising conservation easements in the recent case *Corning Place Ohio, LLC v. Commissioner*.

Another good resource is the *Appraisal Journal* article "The Evolution of Land Trust Responsibilities in Reviewing Conservation Easement Appraisal" (Issue 2–3, 2023). The article's appendix contains a comprehensive checklist that can serve as "a very useful tool for appraisers in determining whether or not they wish to get involved in this sort of work," says Wells.

Although increasing the number of qualified appraisers across the country will take time and persistent efforts, conservation happens at the speed of trust, as the saying goes.

Rothstein puts it this way: "We all play a role in conservation, whether on a personal or professional basis, and to me it's all about storytelling and relationships. The stories are about the people who are on the land, who own the land, the values to conserve — and appraisers are an important piece of that. They are a key part of my team when I am putting a deal together and whose opinion we really rely on. It's not something we take lightly, and these are relationships we want to nurture, so people can feel comfortable understanding what we do, and understand what their role can be in conserving land."

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# AI website helps clients find qualified appraisers

Appraisal Institute members who specialize in conservation valuation have a built-in marketing tool thanks to AI's website. Clients looking for these appraisers can conduct a "business service" search in the Find an Appraiser tool, cross-referenced with any AI designation (MAI, SRA, etc.), to identify Designated Members offering services in conservation, IRS or the Uniform Standards for Federal Land Acquisition. Additionally, the Valuation of Conservation Easements Professional Development Program Registry lists individuals who have completed AI's 30-hour Valuation of Conservation Easements course.



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Appraisal Institute members have access to more than 90 years of appraisal knowledge, including resources on conservation easements, through the Y.T. and Louise Lee Lum Library. Log in at [bit.ly/3XFhKp5](https://bit.ly/3XFhKp5).