



OLR RESEARCH REPORT

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SELLING OR ACQUIRING OPEN SPACE LAND

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You asked for information about the state selling or acquiring open space land (outside of land transfers in the legislature's annual conveyance act). In particular, you want to know (1) if, in acquiring land, the state can pay more than the current value of the land; (2) how the state determines the value of land and if the answer depends on the funding source for the purchase; and (3) if placing a conservation restriction on the land diminishes its value and affects whether the purchase can go forward.

SUMMARY

The state can pay more than the current value for land. When acquiring land for a state forest or park, the state may pay a mutually agreed upon price.

By law, the state determines the value of land by obtaining certified appraisals developed pursuant to national standards. The standards may vary if federal funds are used for the purchase.

A conservation restriction likely decreases the value of land, according to the Department of Energy and Environmental Protection (DEEP), but it does not prevent the purchase from moving forward. However, the Department of Administrative Services (DAS) believes a customized appraisal, one that takes the land's proposed use into consideration, can increase the value of the land to a prospective purchaser.

CAN THE STATE PAY MORE THAN CURRENT VALUE FOR LAND?

The state can pay more than the current or appraised value for land, according to DAS. There is no statute or regulation restricting the purchase price. With respect to purchasing property for development as a state forest or park, the law specifies that the state may acquire land “at such price as may be mutually agreed upon” (CGS § [23-31](#)).

HOW DOES THE STATE DETERMINE THE VALUE OF LAND?

When acquiring real property, the state usually obtains two appraisals from appraisers certified by the Member of Appraisals Institute, according to DAS. Specifically, the state hires two appraisers if the property’s value is estimated to be \$100,000 or more and one appraiser for property estimated to be worth less than that amount.

Each appraiser must determine a fair market value estimate for the property as of a specific date using the Uniform Standards of Professional Appraisal Practice (USPAP) (CGS § [20-500\(1\)](#)).

But, when DEEP acquires land, it determines fair market value through the appraisal process and negotiations with the property owner. (Fair market value is considered the amount a reasonable buyer would pay a willing seller, according to DEEP.) Appraisals are prepared in accordance with USPAP and the Uniform Appraisal Standards for Federal Land Acquisitions (“the Yellow Book”).

Once appraisals are conducted, DEEP negotiates a purchase price with the property owner. According to DEEP, the department attempts to arrive at a purchase price that is favorable to the state because it has a fiduciary duty to taxpayers. Although DEEP typically pays no more than the appraised value of land, it is not prohibited from paying more.

The standards used to develop an appraisal may vary if federal funds are being used for the purchase. According to DAS, this has not occurred to date.

DOES PLACING A CONSERVATION RESTRICTION DIMINISH THE LAND'S VALUE?

DEEP believes that a conservation restriction decreases the property's fair market value, but this does not prevent the sale from happening. According to DEEP, if the department were to place a conservation restriction on property, this would usually happen after the property is acquired.

By law, any person, organization, or political subdivision of the state to whom the state proposes to convey state park land, forest land, or other state land previously held as protected open space must execute a conservation easement in favor of the state that provides for the same development restriction that was in effect for such land immediately before the conveyance (CGS § [23-8a](#)). The law also requires the DEEP commissioner to review proposed sales or transfers of state property to determine if some or all of the land has significant natural and recreational resources that should be preserved through, for example, a conservation easement (CGS § [4b-47\(b\)](#)).

Although DEEP believes a conservation easement reduces fair market value, DAS notes that a customized appraisal can actually increase appraised value. A customized appraisal is one that takes into consideration the land's prospective use. DAS asserts that when this occurs, the property's appraised value often increases because the property in question is considered more valuable to the party interested in acquiring it because it fits a specific need.

ADDITIONAL INFORMATION

For additional information about DEEP's process to acquire land to expand the state's system of parks, forests, wildlife, and other natural open spaces, see http://www.ct.gov/dep/cwp/view.asp?a=2706&q=323840&depNav_GID=1641.

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