

Salt Spring Island Conservancy

Policy Manual

##

Subject: Gift Acceptance and Disposition Policy: V. Legal Counsel and Appraisals
Date Passed: June 19, 2008

Legal/Financial Counsel

The Conservancy will retain legal and/or accounting services as they are needed.

- **Independence of Counsel:** Donors will always be strongly encouraged to secure the advice of independent legal and financial/tax counsel in all matters pertaining to larger gifts to the Conservancy. Having independent counsel will ensure that the donor receives a full and accurate explanation of all aspects of the proposed gift and that the gift is consistent with the donor's objectives.
- **Choice of Advisors:** The Conservancy will not have any influence on the donor's choice of advisor. If a donor asks for a referral to independent legal and/or tax advisors, the Conservancy will refer the donor to an appropriate professional association.
- **Disclosure Form:** When gifts requiring the approval of the Board of Directors are arranged, or for any gift when the Conservancy representative negotiating the gift deems it prudent, the donor will be asked to sign a disclosure form acknowledging that neither the Conservancy nor its employees shall serve as counsel to the donor. This disclosure form will state, in part:

"The information provided to you by Conservancy representatives is available free of charge to you. We encourage and recommend that you consult with your lawyer, financial adviser, insurance professional and /or tax advisor to review and approve any information or other materials provided to you by the Conservancy representatives. Although we are unable to serve as your lawyer, financial adviser, insurance advisor or tax consultant, we will be more than willing to work with your independent advisors to assist you in making and finalizing your decision."

Appraisals

Establishing Fair Market Value: The Canada Revenue Agency (CRA) requires satisfactory evidence of fair market value of the gift. Although the term "fair market value" is not defined in the *Income Tax Act*, the generally accepted meaning is the price the property would bring in an open market transaction between a willing buyer and a willing seller, acting independently of each other, and each having full knowledge of the facts. An arm's length sale and purchase of the property, at or near the effective date of valuation, is normally considered the best proof of value at the time.

The donor will ordinarily be asked to provide suitable appraisal documentation in support of the claimed value. The appraiser used must be a person knowledgeable in the valuation of that particular kind of property and should not be associated with the donor or the Conservancy. The appraiser should prepare a proper evaluation report for the Conservancy. When the Conservancy issues a tax receipt for the gift, the name and address of the appraiser must be included for reference.

Salt Spring Island Conservancy

Policy Manual

##

Where the value of the gift is significant, two appraisals may be required. Appraisal costs are the responsibility of the donor unless otherwise approved by the Conservancy's Board of Directors.

- **Gifts of Land:** Appraisals of gifts of land and ecological gifts are covered in other policies.
- **Offsetting Donor Costs:** In some cases the Conservancy might be able to provide material assistance to offset donor costs associated with the donation, either by soliciting third-party grants or through the Conservancy's not-for-profit status. But, the Conservancy will weigh the burden of finding grants or other ways of helping with donor expenses with the size or importance of the gift.

Conditions of Acceptance

In considering a gift the Conservancy must first consider the terms and conditions, including associated costs, upon which the gift has been offered.

The gift should be such that it can be retained as a Conservancy asset and used in connection with Conservancy activities, with discretion as to its use and management, or disposed of for cash or cash equivalent.

Where the donor has requested conditions be placed on the donation, and the acceptance of the gift would prove administratively difficult or not in Conservancy's best interest, the Conservancy may request that the terms of the gift be revised or may decline the offer of the gift.