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Another look at conservation easement: Part 1

January 09, 2008 - Appraisal & Consulting

While this subject has been addressed in previous articles, it is still a timely topic and continues to generate new perspectives. This month, some foibles and challenges of appraising these easements in winter are discussed.

A recent call from a local Island Land Trust asked our firm to bid on appraising a conservation easement on an off-shore island. Some research revealed it was 20 miles southeast of Tenant's Harbor in downeast Maine and ten miles out to sea beyond Matinicus Island, one of the most remote islands off the coast of Maine. We would need to inspect this island in mid-winter, so sea transport was not practical. As the island was improved with at least one permanent building, we would need to inspect this structure and the six-acre island, and it would involve a couple of hours to thoroughly inspect the property. After a few calls to determine the cost and availability of transport, we began to realize how complicated and challenging appraising an off-shore island in the middle of winter in Maine could be.

The first question the air service company representative asked was if we had arctic survival gear. "Oh, and why do you ask?" It seems flying to this island would be in a Bell Ranger helicopter, and the previous time they had flown to an off-shore island, they left the appraiser on the island while they flew back to the mainland. Operating a helicopter, the only practical way to get to the island, was very expensive and as they could not idle the engine for several hours, they would need to shut down the engine if they remained on the island. This was not advisable in winter, we were told. The only pilot qualified and available to fly us to the island had had a bad experience in Antarctica the prior year when a hydraulic line broke due to cold conditions starting the engine after several hours. He and his passengers were stranded on the Ross Ice Shelf for two days until rescue could arrive.

So the helicopter would fly back to the mainland, shut down and return for us several hours later, assuming the engine started. This was not a guarantee; in fact helicopter engines are prone to mechanical foibles, so we needed to be prepared to stay on the island for "awhile." Besides this risk, if weather changed, a very common occurrence in Maine in winter, the helicopter could not fly. The cost would be \$500/hour for any flight time and \$100/hour for pilot down time. After this information, we bid a high fee, a very high fee, for the job. We have yet to hear if we got the job. I really hope we do. How often does work involve such adventure?

Most conservation appraisals are not so dramatic, but usually do involve challenges all the same. This firm does several conservation easement appraisals each month. Some clients use the valuations of these easements to apply for federal funding or to take a tax deduction for a gift of the conservation easement to a local land trust. For some reason, the clients invariably seem to want

these appraisals done in winter, to take advantage of an expiring window for funding opportunities or to have an appraisal to use for submission to the IRS for the current year.

Winter appraising of conservation easements typically involves inspection of large land parcels under adverse conditions of cold, difficult access and short day-light hours. Cross-country skis, snowshoes, heavy weather clothing and sometimes a charter flight in a two-seater aircraft are all tools used by the appraiser in winter months. Understanding topography, wetlands and soils is not available by observation so much as on-line task rather than on-site research. And it seems every land owner wants to tour the property to the ends of each meet and bound. These owners have one or more of several issues motivating their request for an appraisal of the conservation easement. Some are philanthropic: they wish to donate land to a local land trust for "forever wild" preservation; some are less altruistic: they simply want a cash infusion for their business. All the owners have had a long association with their land and are a bit reluctant to let go. Farmland appraisal is particularly emotional for farmers. The economics of farming are problematic at best. Valuation of an agricultural conservation easement can give farmers the opportunity to apply for funding from both federal and state programs desiring to preserve farmland with high value soils. This allows the farmer to "sell" or transfer development rights for anywhere from 50% to 100% of the diminution in value as a result of an agricultural conservation easement. The cash can then be utilized to refurbish or replace aging equipment, repair infrastructure or more often to offset operating losses in an unstable economy for the farm's agricultural based product.

Part two will appear in the February 8th, 2008 edition of the New England Real Estate Journal.

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