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Preserving open space in Connecticut is a win-win

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The recent success of The Preserve in Connecticut illustrates how Connecticut's open space grant program is a win-win for land owners, local residents and wildlife habitat.

The Open Space Watershed Land Acquisition (OSWA) Grant Program provides funding to acquire land for open space, passive recreation, or to preserve habitat for living creatures. Eligible sponsors for the program include Connecticut municipalities, land trusts and water companies.

The program is not political, since funds are awarded according to a point score rating system, which encourages projects blessed with natural resources, strong sponsorship, and local support. Municipalities like the program since they can use the funds to leverage open space acquisitions, and the grant money is spread throughout the state.

OSWA funds can be used to encumber land with a conservation easement, or to purchase the fee simple interest in a property. A conservation easement is defined an interest in real property restricting future land use to preservation, conservation, wildlife habitat or some combination of those uses. For example, a farmer can cash-out by selling a conservation easement over his land, yet still retain his working farm. The conservation easement allows protection of land without conveying ownership.

The grant program is administered by CTDEEP. Two "Yellow Book" appraisals are required for most grant applications. Unlike the typical financing appraisal, the OSWA Grant Program requires that appraisals conform to the Uniform Standards for Federal Land Acquisitions. Applicants should take care to qualify their appraisers and ensure that they have expertise in this unique assignment type.

State funding for open space acquisitions is generated by state bonds and the Community Investment Act (CIA). The CIA is a continuous source of funding generated by a \$40 recording fee collected on every real estate transaction. Since 2005, the CIA has generated \$133 million for land protection, affordable housing and historic preservation.

The 2015 Governor's budget proposed sweeping more than \$15 million from the CIA into the general fund to make up the budget shortfall. In the end, about half of CIA funds were diverted to the general fund. On a positive note, John Shaban, ranking member of the environment committee, helped pass legislation to increase the amount of state and federal funds granted under the OSWA Grant Program from 70 to 90%. According to Dave Stygar at the CTDEEP, the state projects \$16 million in grant funding for open space protection over the next two years.

The recent purchase of The Preserve highlights the success of the state grant program. Totaling 1,000 acres, The Preserve represented the largest unprotected coastal forest between New York City and Boston. It is located in Old Saybrook, Essex and Westbrook, in a relatively unfragmented forest block of more than 6,000 acres. The land plays an important role in maintaining local water quality, and is home to 25 species of amphibians and reptiles, 30 species of mammals, and 57 species of birds.

Over the past decade, Lehman Brothers made several attempts to develop The Preserve, including a proposal to construct 200 homes and an 18-hole golf course. Public opposition to the project stalled progress. In 2014, the Trust for Public Land, with the support of local land trusts, partners and individual donors, reached an agreement to purchase the property for just over \$8 million. The Preserve was purchased by the state of Connecticut, town of Old Saybrook, and the Essex Land Trust in April, 2015. Conservation easements are held by the state and The Nature Conservancy. This successful open space acquisition is a win-win for Lehman Brothers, the local residents and wildlife. Lehman Brothers benefits by receiving market value of over \$8 million for their land. In return, The Preserve will be permanently protected for future generations, providing year-round recreational opportunities for the public and natural habitat for wildlife. This was made possible by the diversity of funding from local municipalities, land trusts and individual donors, leveraged with state grant funds.

Property owners interested in preserving all or part of their land should contact their local land trust or municipality. Land owners benefit by receiving cash for the sale of property rights, a tax deduction for the donation of property rights, or a combination of both. Congress made donation of conservation easements deductible in the Tax Reform Act of 1969. A noncash charitable contribution will require an appraisal report supporting the market value of the donation conforming to IRS standards.

If you are considering applying for the OSHA program, I recommend that you contact a qualified appraiser early on in the process. From the point of view of a land trust or municipality, the appraiser can provide a value range that would be helpful in discussions with the land owner, and in the eventual grant application. For a property owner, the appraiser can help you set a fair price for your property, or provide support for a charitable contribution. In any event, contacting an appraiser early in the process can help set expectations and avoid surprises late in the game.

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