



June 7, 2005

The Honorable Max Baucus  
Ranking Minority Member  
Committee on Finance  
United States Senate  
511 Hart Senate Office Building  
Washington, D.C. 20510-2602

SENT VIA FAX

Dear Senator Baucus:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>1</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>1</sup> “Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Jeff Bingaman  
Member  
Committee on Finance  
United States Senate  
703 Hart Senate Office Building  
Washington, D.C. 20510-3102

SENT VIA FAX

Dear Senator Bingaman:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>2</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>2</sup> “Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Jim Bunning  
Member  
Committee on Finance  
United States Senate  
316 Hart Senate Office Building  
Washington, D.C. 20510-1703

SENT VIA FAX

Dear Senator Bunning:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>3</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>3</sup> “Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Kent Conrad  
Member  
Committee on Finance  
United States Senate  
530 Hart Senate Office Building  
Washington, D.C. 20510-3403

SENT VIA FAX

Dear Senator Conrad:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>4</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>4</sup> “Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Michael D. Crapo  
Member  
Committee on Finance  
United States Senate  
239 Dirksen Senate Office Building  
Washington, D.C. 20510-1204

SENT VIA FAX

Dear Senator Crapo:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>5</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>5</sup> "Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514." From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Bill Frist  
Member  
Committee on Finance  
United States Senate  
509 Hart Senate Office Building  
Washington, D.C. 20510-4205

SENT VIA FAX

Dear Senator Frist:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>6</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>6</sup> “Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Charles E. Grassley  
Chairman  
Committee on Finance  
United States Senate  
135 Hart Senate Office Building  
Washington, D.C. 20510-1501

SENT VIA FAX

Dear Chairman Grassley:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>7</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>7</sup> “Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Orrin G. Hatch  
Member  
Committee on Finance  
United States Senate  
104 Hart Senate Office Building  
Washington, D.C. 20510-4402

SENT VIA FAX

Dear Senator Hatch:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>8</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>8</sup> “Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable James M. Jeffords  
Member  
Committee on Finance  
United States Senate  
413 Dirksen Senate Office Building  
Washington, D.C. 20510-4503

SENT VIA FAX

Dear Senator Jeffords:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>9</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>9</sup> “Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable John F. Kerry  
Member  
Committee on Finance  
United States Senate  
304 Russell Senate Office Building  
Washington, D.C. 20510-2102

SENT VIA FAX

Dear Senator Kerry:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>10</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>10</sup> "Under the proposal, a qualified appraiser is "an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514." From "Options to Improve Tax Compliance and Reform Tax Expenditures," Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Jon Kyl  
Member  
Committee on Finance  
United States Senate  
730 Hart Senate Office Building  
Washington, D.C. 20510-0304

SENT VIA FAX

Dear Senator Kyl:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>11</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>11</sup> "Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Blanche Lambert Lincoln  
Member  
Committee on Finance  
United States Senate  
355 Dirksen Senate Office Building  
Washington, D.C. 20510-0404

SENT VIA FAX

Dear Senator Lincoln:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>12</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>12</sup> "Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Trent Lott  
Member  
Committee on Finance  
United States Senate  
487 Russell Senate Office Building  
Washington, D.C. 20510-2403

SENT VIA FAX

Dear Senator Lott:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>13</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>13</sup> "Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable John D. "Jay" Rockefeller  
Member  
Committee on Finance  
United States Senate  
531 Hart Senate Office Building  
Washington, D.C. 20510-4802

SENT VIA FAX

Dear Senator Rockefeller:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>14</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>14</sup> "Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Rick Santorum  
Member  
Committee on Finance  
United States Senate  
511 Dirksen Senate Office Building  
Washington, D.C. 20510-3804

SENT VIA FAX

Dear Senator Santorum:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>15</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>15</sup> "Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Charles E. Schumer  
Member  
Committee on Finance  
United States Senate  
313 Hart Senate Office Building  
Washington, D.C. 20510-3202

SENT VIA FAX

Dear Senator Schumer:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>16</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>16</sup> "Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Gordon H. Smith  
Member  
Committee on Finance  
United States Senate  
404 Russell Senate Office Building  
Washington, D.C. 20510-3704

SENT VIA FAX

Dear Senator Smith:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>17</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>17</sup> "Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514." From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Olympia J. Snowe  
Member  
Committee on Finance  
United States Senate  
154 Russell Senate Office Building  
Washington, D.C. 20510-1903

SENT VIA FAX

Dear Senator Snowe:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>18</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>18</sup> "Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Craig Thomas  
Member  
Committee on Finance  
United States Senate  
307 Dirksen Senate Office Building  
Washington, D.C. 20510-5003

SENT VIA FAX

Dear Senator Thomas:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>19</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>19</sup> "Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment



June 7, 2005

The Honorable Ron Wyden  
Member  
Committee on Finance  
United States Senate  
516 Hart Senate Office Building  
Washington, D.C. 20510-3703

SENT VIA FAX

Dear Senator Wyden:

The undersigned professional appraisal organizations are writing to members of the Senate Finance Committee in connection with Wednesday's hearing on *"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform."* Some important appraisal issues will be considered as the Committee addresses this matter, and our organizations, whose mission is to uphold appraisal standards and professional ethics, want to offer our views on these issues. We hope this will prove helpful to you as the Committee considers legislation addressing non-cash charitable contributions involving conservation easements.

The issue before the Committee involves the valuation of conservation easements for tax purposes. We want to assure the Committee that there is an appropriate body of knowledge relating to the valuation of conservation easements that, together with adherence to uniform appraisal standards and in the hands of a properly qualified appraiser, produces reliable easement valuations.

We recognize that a number of controversies resulting from the egregious practices of some taxpayers, donee organizations, appraisers and others have been exposed recently. You will likely hear about some of these during the hearing. For example, some appraisers have used inflated contract prices, such as those based exclusively on non-arm's-length transactions, to establish inflated value estimates for tax write-off purposes. Other appraisers have incorrectly applied "subdivision development analysis" techniques, which rely on discounted cash flow analysis. While we believe that subdivision development analysis is a sound methodology when used in the appropriate circumstances and applied correctly with valid assumptions (see attached letter), we recognize the need for greater education and clarity in this area. We want to see these problems rectified, and we believe they can be by improving valuation rules administered by the Internal Revenue Service (IRS).

The accuracy of the appraisal is central to the donation of a conservation easement, to the taxpayer filing the tax return, to the donee organization seeking to preserve open space, to the federal and state governments facing impacts on revenue, and to the public. It is therefore extremely important to have this service performed by a competent appraiser obligated to be impartial; someone with easement appraisal experience, specialized education and professional accreditation together with

an understanding of the unique issues involved in appraising properties subject to open space and conservation restrictions.

In previous correspondence with the Committee our organizations expressed strong support for a continuation of current law permitting charitable giving of all non-cash property so long as appropriate safeguards – which we believe are readily available and easily implemented – are adopted to ensure the reliability of the fair market value assigned to these donations. Our position is that the key to enhancing the reliability of appraisals for all tax purposes – and to eliminate any current “tax gap” attributed to improper appraisal of fair market value – is for Congress to require the following two things:

- First, individuals performing higher dollar value tax-related appraisals must have meaningful valuation competency and experience and must adhere to uniform appraisal standards that are generally accepted by all valuation professionals (the well-established Uniform Standards of Professional Appraisal Practice (USPAP)).

Under the current IRS definition of “Qualified Appraiser,” anyone who self-declares that they are capable of performing tax-related valuations -- no matter how complex the assignment -- is permitted to do so. We were extremely pleased, therefore, that the Joint Committee on Taxation’s January report explicitly recognizes the need to strengthen the term “Qualified Appraiser.” Our organizations fully support the enactment of the proposed definition<sup>20</sup>. While the establishment of sensible professional appraiser requirements for those who perform tax-related appraisals may not eliminate all problematic valuations, it will greatly reduce their numbers and the severity of their impact on our tax system. We believe this will also reduce the incidence of valuation disputes between taxpayers and the IRS.

- Second, the IRS should implement a reasonable program for reviewing and/or auditing high-dollar value appraisals on a regular, ongoing basis.

We strongly support more vigorous and effective IRS enforcement activities, not just for tax-exempt organizations but also for appraisals supporting the fair market value of non-cash charitable contributions and for other tax purposes. It is our understanding that the IRS has the ability to sanction appraisers under IRS Circular 230, and we believe a renewed emphasis on enforcement will be a strong mitigating force. Additionally, the IRS should refer abusive appraisals to the

---

<sup>20</sup> "Under the proposal, a qualified appraiser is “an individual who affirms: (1) that the fair market value of the subject property has been determined in accordance with generally accepted appraisal standards; (2) with respect to the specific property and transaction type, that he or she: (a) has successfully completed educational coursework, including for continuing education credits, in generally accepted appraisal practices, principles, concepts, methodologies, and ethics from a recognized provider of such courses; or has earned an appraisal designation from a recognized organization that teaches, tests, and provides continuing education to its members in valuation; and (b) regularly performs appraisals for which he or she receives compensation and has a minimum of two years experience in doing so; and (3) has not been subject to disbarment from practice before the IRS by the Secretary pursuant to 31 U.S.C. section 330(c).514.” From “Options to Improve Tax Compliance and Reform Tax Expenditures,” Joint Committee on Taxation Staff Report, January 27, 2005.

*"The Tax Code and Land Conservation: Report on Investigations and Proposals for Reform"*  
June 7, 2005

appropriate professional appraisal organization and licensing and certification authorities. To date, this has generally not occurred, thereby preventing the profession from effectively policing itself in this area.

We want to assure you that the community of professional appraisers we represent strongly supports effective measures to ensure the integrity of all tax-related appraisals, including the sanctioning of appraisers who are found to have performed abusive appraisals or otherwise engaged in professional misconduct. The appraisal profession has developed a broad body of knowledge on these issues, including education and literature specifically on the subject of conservation easement valuation.

Much more can be done, and we are willing to work with Congress and interested parties to develop additional education, provide clarity to current standards and improve the overall quality of appraisals performed for non-cash charitable contributions. In fact, our associations have signed a memorandum of understanding with the Land Trust Alliance committing us to work together on these common initiatives. But, as stated above, we believe the keys to tax-related appraisal reform lie in requiring adherence to the Uniform Standards of Professional Appraisal Practice, enhanced audits of appraisals, and a re-definition of the IRS term "Qualified Appraiser."

You will find attached a document commenting on the "subdivision development analysis" method, which we hope will help explain the need for retaining this method as a tool for use by appraisers under appropriate circumstances.

Should you have any questions or need further information, please contact Don Kelly, Vice President of Public Affairs, Appraisal Institute, at 202-298-5583 or [dkelly@appraisalinstitute.org](mailto:dkelly@appraisalinstitute.org); Ted Baker, Director of External Relations, American Society of Appraisers, at 703-733-2109 or [tbaker@appraisers.org](mailto:tbaker@appraisers.org); or Steve Runyan, Government Relations Committee Chair, American Society of Farm Managers and Rural Appraisers, at 661-587-7200 or [srunyan@bak.rr.com](mailto:srunyan@bak.rr.com).

Sincerely,

Appraisal Institute  
American Society of Appraisers  
American Society of Farm Managers and Rural Appraisers

Cc: Attachment