

# *Troubleshooting Land Conservation Transactions*

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Conservation Conference

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# Some Keystone Elements

- Landowner Cultivation and Relationship Building
- Negotiating the Transaction
- Lawyer's Role

# Understand Your Landowner

- Individuals
- Extended families
- Corporations
- Trusts
- Non-profit institutions
  - Scouts, religious orders, hospitals, academic institutions
- Developers
- *Different strategies work with different owner types*



# Some relationship building tips....

- Meet in person
- Meet landowners on their turf
- Talk on the phone
- Let the landowner do the talking
- Never under-estimate the value of a walk-n-talk
- Always say yes to a glass of water/cup of coffee
- Don't presume anything
- Do your homework, but don't let on how much you know

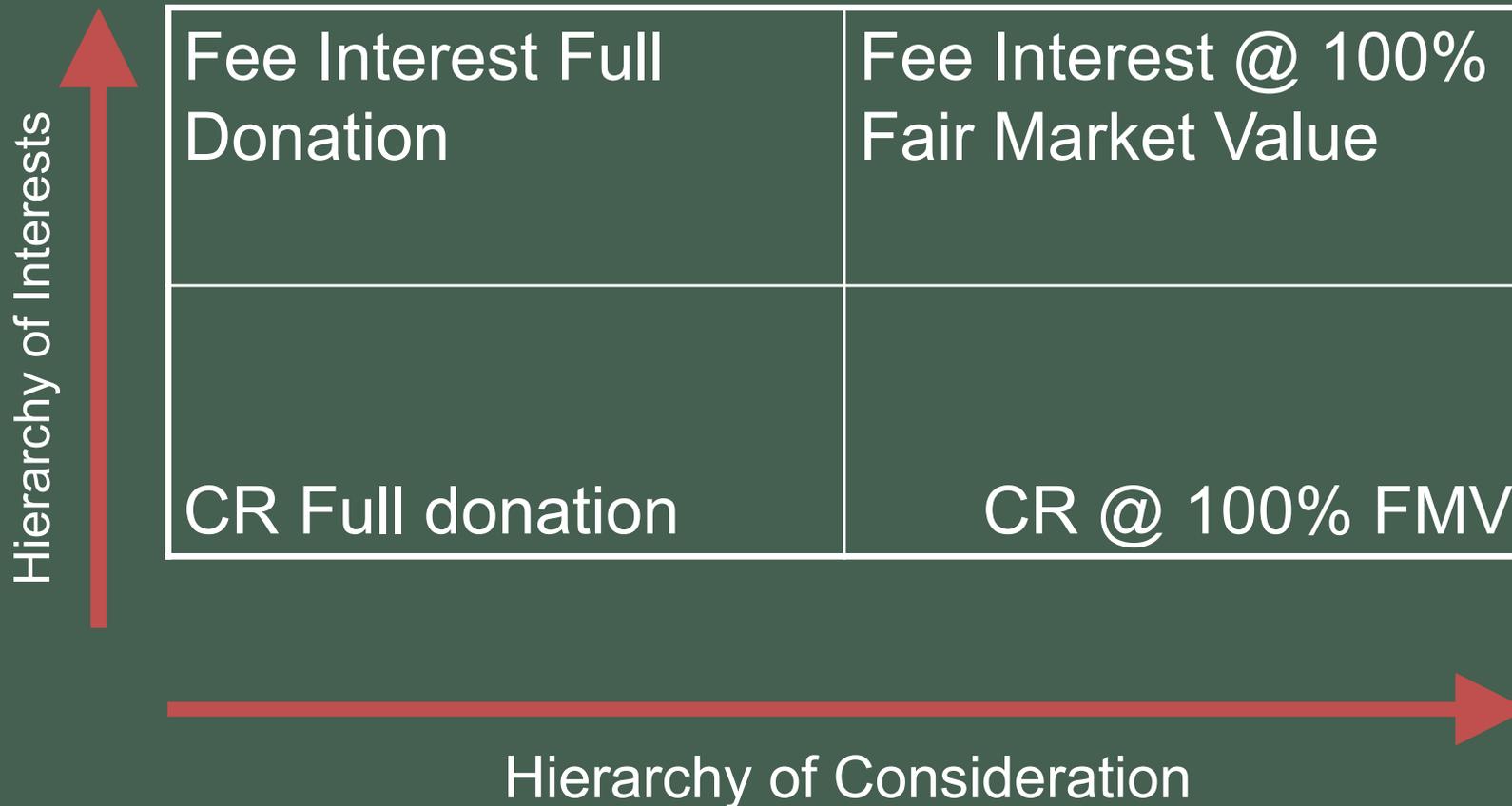
## Landowner Motivations Vary

<p>Desire to assist organization in accomplishing mission, land is a means toward that end</p>	<p>Hybrid motivation—Some conservation interest, also motivated by financial considerations</p>
<p>No organizational affiliation but are conservation-minded and are looking for a steward in which they have confidence</p>	<p>No conservation agenda, transaction is strictly a business proposition (e.g. market value sale or development exaction)</p>

## Landowner Goals Vary

<p style="text-align: center;"><u>Reduce Taxes</u></p> <ul style="list-style-type: none"><li>• Income, real estate, gift, estate</li></ul>	<p style="text-align: center;"><u>Generate Funds</u></p> <ul style="list-style-type: none"><li>• Education, retirement, health, divorce</li></ul>
<p style="text-align: center;"><u>Reduce Management Obligations</u></p> <ul style="list-style-type: none"><li>• Boundaries (encroachments) mowing, storm damage, roads/trails</li></ul>	<p style="text-align: center;"><u>Leave a Legacy</u></p> <ul style="list-style-type: none"><li>• Boundaries (encroachments) mowing, storm damage, roads/trails</li></ul>

## Landowner Goals and Motivations Drive Project Design



# Negotiating Tips and Tricks

## Basic Elements

- Are you negotiating with the decision-maker?
- Focus on common goals/interests
- Use objective criteria
- Share information
- Timing is key

# Negotiating Tips and Tricks



The Deal Happens Here

# Negotiating Tips and Tricks

## Common Obstacles

- Lack of transparency
- Parties at cross purposes
- Trust or credibility not established
- Landowner expectations around price and timing



# Lawyer's Role

## Early Stage of Negotiations

- Order title early
- Know your Seller parties and advisors

Importance of Tax Advice Disclaimers

## Offer to Purchase – getting the property tied up

- Binding nature  
Contingencies, dates, tenants, condition of the property, brokers, escrow agents

# Lawyer's Role

## Purchase and Sale Agreement

- Versus an Option
- Due Diligence and Access Rights

## Due Diligence

- Title, leases, land use issues
- Environmental
  - LSP Professional Contracts
  - Reliance Letters

# Lawyer's Role

## Funding Agreement/Financing

- Short term private loans
- MOU's and Purchase/Taking Agreements
- EEA Title Certification Requirements

## Closing

- Tracking Seller's progress with title and due diligence exceptions
- Escrow Closings

# Lawyer's Role

## Closing (continued)

- Title Insurance
- Wiring funds; precautions
- FINCEN reporting - yes, it applies to land trust purchases IF there are existing residential structures

# So, What's Your Deal?

## GROUP Discussion





# Bringing Nature to the Ballot

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As part of the Nature for Massachusetts Coalition, Mass Audubon, The Trustees and others are advocating for the state to dedicate \$100 million annually to conserve land and protect clean water, improve outdoor recreation, and build climate resiliency.

The next step to securing this permanent funding source is collecting 21,000 signatures from Massachusetts voters between May 6 and June 17 to get this on the November 2026 ballot. **You can volunteer to help collect these signatures!**



[massaudubon.org/natureformas](https://massaudubon.org/natureformas)

# Common Transaction Hurdles – How has your organization handled ...

- Negotiations with a Seller who has outsized expectations of value?
- Unexpected discovery of hazardous materials?
- A Seller who is unwilling to cure title issues?
- A Seller who asks for post-closing use of the property or similar private benefit?
- A Seller who is looking for assurance at closing that property will remain undeveloped?