

Standards and Practices

STANDARD 9 ENSURING SOUND TRANSACTIONS

G. Recordkeeping

- 3. Create and keep copies of these documents in a manner such that both originals and copies are not destroyed in a single calamity

Accreditation indicator elements located at www.landtrustaccreditation.org

IMPORTANCE OF GOOD RECORDKEEPING STORAGE

Land trusts need to maintain and store copies of all original documents essential to the defense of a land or easement transaction in places where they can easily access them and they will be safe from harm. For additional protection, copies and working files should be kept in one location and original documents and permanent files should be kept in a separate location. Land trusts need to prepare for the worst because it can happen. Just ask the Land Trust for the Mississippi Coastal Plain. Three sets of records in three different counties were lost or badly damaged in Hurricane Katrina, and the land trust subsequently spent hundreds of hours and thousands of dollars rebuilding their files.

For information on storage of original documents, see Practice 9G2. Practice 9G1 addresses recordkeeping policies.

WHAT DOCUMENTS NEED DUPLICATION?

A land trust should prepare and maintain complete written documentation of transactions. At a minimum, it needs to have two sets of documents:

1. Documents that are safely stored in a way that ensures that they will last and be acceptable evidence in the event of a court proceeding (permanent files)
2. Copies of all documents essential to the defense of each real property transaction

DUPLICATE DOCUMENTS

The permanent file includes those documents and records that constitute the essential and irreplaceable record of a transaction and any subsequent activity related to that project. This includes easement monitoring, approval and enforcement data, as well as data related to the initial transaction. For more information on original document storage and a full list of documents to keep, see [Practice 9G2](#).

At a minimum, the land trust should have duplicates of the following irreplaceable documents essential to the defense of each conservation easement and fee property still owned by the organization:

- Legal documents and agreements, including deeds, conservation easements, amendments and leases
- Critical correspondence, such as correspondence with the landowner related to project goals, tax and legal matters, notifications, approvals, enforcement and other key matters the land trust determines essential to the defense of the transaction
- Baseline documentation reports for conservation easements
- Title insurance policies or evidence of title investigation
- Surveys, if any

🔗 For accreditation, a land trust must retain copies of these records:

- Critical correspondence, including those related to project goals, tax and legal matters, enforcement and other matters essential to the project
- Baseline documentation reports
- Title insurance policies (if any)
- Unrecorded surveys (if any)

Copies must be replicas of signed originals with all exhibits and attachments.

DOCUMENT STORAGE

Records policies and procedures should address how and where the land trust stores the copies of all original files. [Practice 9G2](#) addresses storage of originals in more detail.

When considering storage options for duplicates, land trusts should consider the following issues:

- *Who needs access to records* — board, staff, volunteers, the public? Which records? How quickly? How often?
- *Confidentiality*. When should access be limited? How should access be limited?
- *Safety and security*. What are the risks of loss, destruction or unauthorized access, and what are the consequences? Fire? Theft? Flood? Malicious mischief? Other? What can you do to limit the likelihood of loss? What will happen if you lose certain data?

Options abound for storage of both original records and duplicates: a storage facility, bank safe deposit box, office of the land trust's attorney, local historical society, another location where the land trust has control over the retention of documents, electronic file storage, cloud-based electronic file storage and so forth. Duplicates may be kept in the land trust office either in fireproof filing cabinets or electronically (on a server or in the cloud). Every filing and recordkeeping option has a cost. Costs of various options must be balanced against their benefits. Land trusts should carefully evaluate different recordkeeping systems.

No matter what format your files take, the duplicates of irreplaceable documents should be stored in a separate location from the originals.

ELECTRONIC DUPLICATES

Many land trusts are increasingly using computer scanning as part of their document storage process. PDFs or other file formats that do not allow documents to be altered are created and stored offsite (or in a fireproof safe) on non-rewriteable discs or with an online archiving service. This technique saves space but requires time to scan documents.

If a land trust stores its duplicates in an electronic format, it should ensure that the copies are exact replicas of the signed originals, with all exhibits and attachments in a format that cannot be altered. Avoid draft or unsigned versions of documents.

It's important to remember that digital technology is changing all the time. Keep abreast of new advances in the use and storage of digital documentation and records. Additionally, be aware of any changes in state law or court rulings regarding the admissibility of digital records as evidence in court proceedings. Such changes may alter the land trust's current records policy and operational procedures. See Tips for Cloud-Based Storage in [Practice 9G2](#).

🌀 For accreditation, a land trust must store originals and copies in locations that could not be destroyed in a single calamity (such as paper originals and duplicates stored in separate locations or electronic duplicates being backed up on a remote server or in the cloud).

WORKING FILES

Some land trusts have copies of certain documents that can be used for monitoring or as problems or issues arise (working files).

These files should be accessible to land trust personnel who are responsible for completing the transaction or conducting ongoing stewardship activities, such as annual monitoring or responding to landowner inquiries.

Contents of the working file may include duplicates of the documents needed to implement the project's management or monitoring plan in the field. The file may also have a document summary or checklist that serves as a transaction chronology and an index of what is in the permanent file. Many land trusts summarize key information for the working file rather than include entire documents. It is common, for example, to prepare an easement abstract that includes key information on location, restrictions and reserved rights—the kind of information needed for monitoring—and to have the easement itself on file elsewhere.

Working files typically include:

- Completed document summary or checklist
- Site evaluation data or summary
- Recorded deed or conservation easement or summary
- Active contracts (such as leases) or summaries
- Maps (parcel, GPS or topo)
- Photos
- Baseline documentation report or summary
- Updated resource data or summary
- Management/monitoring plan or summary
- Annual monitoring reports or summary of monitoring visits made

Originals of important documents, like the recorded deed or baseline documentation report, should not be kept in the working file but in a separate, secure location.