

Standard 9: Ensuring Sound Transactions

Legal Review Policy

Utah Open Lands (UOL) works diligently to see that every land and easement transaction is legally, ethically and technically sound.

UOL intends to protect the property it conserves in perpetuity. UOL draws a landowner's attention to issues that must be addressed as the transaction proceeds. UOL will not represent itself as giving specific legal or financial advice; UOL will ensure landowner understands his/her the importance of consulting with their advisors. UOL may have to call on other financial and technical experts in order to complete the transaction. UOL will carefully document the steps taken in performing its due diligence in order to secure the perpetual conservation of the property.

Property inspection. All land projects undertaken by UOL have been physically inspected (see Comprehensive Forms for documentation). The property is inspected for resource values and impairments, including hazardous wastes and other physical conditions relevant to the transaction. UOL should identify uses and users of the property to verify their rights and legal status.

Boundaries. UOL establishes, as precisely as possible, how many acres of land the boundaries contain. County parcel maps often include approximate acreage. A survey based on the property's legal description, with corners and boundaries permanently marked (and located on the ground by the UOL Stewardship and Conservation Director), is the best way to verify boundaries. Surveyors can be hired if new survey work is needed. Other tools to help identify boundaries include aerial photos, parcel maps, GPS work, and ground markings.

Title. UOL verifies ownership, status of title and existence of liens or debts, deeds, contracts, court actions, or other recorded documents that could affect the monetary and/or conservation values of the property, including rights reserved by previous owners and utility and road easements (see Comprehensive Forms for documentation). A title investigation by a title company, attorney or title researcher is invaluable.

Zoning and other government regulations. UOL needs to be familiar with zoning and other public policies that apply to the property (see Comprehensive Forms for documentation) in order to determine what land use pressures and protections exist under the current regulations and policies. This information is generally available at government planning and zoning offices. Local general or master plans (reports and maps) are available at most planning departments.

Estimated market value of the property. An accurate estimate of market value is necessary for property UOL is purchasing or selling (and desirable, though not essential, for gifts). UOL avoids overstating or underestimating the value, both for negotiating and reporting purposes. When necessary, UOL employs an appraiser qualified to assess conservation easement values.

Finalizing the transaction

Escrow and closings. From time to time an escrow is used as a precautionary measure to insure that all conditions to a transaction are met before money and deeds change hands. At closing, the escrow officer, or title officer confirms the recording of the transaction documents, prepares settlement statements for buyer and seller, disburses funds, and delivers documents to the parties as specified in the instructions.

Recording. UOL uses a title or escrow company to record documents or assign a representative to record them. The original documents, with the recording stamps, should be returned to UOL and kept as part of the permanent file.

Standard 9: Ensuring Sound Transactions

Title insurance. Title insurance protects landowners (up to specified amounts) against certain types of losses, including defective or unmarketable title. UOL should obtain title insurance for property it holds in fee, especially if the land is purchased. For conservation easements, UOL should encourage owners of conservation easement lands to have title insurance; in some cases UOL may obtain title insurance to cover its interests, if available. (Title insurance should be obtained for purchased easements.) UOL relies on title companies and land professionals to help determine what it needs and provide or help obtain the insurance.

Legal review of documents. UOL obtains a legal review of every land and easement transaction, appropriate to its complexity, by an experienced land attorney. This review should include all documents for every transaction, including deeds, agreements, title reports, options, offers, counteroffers, and escrow instructions.