



## **MINNESOTA LAND TRUST**

### **FIDUCIARY RESPONSIBILITIES AND CONFLICTS OF INTEREST**

#### **OVERALL POLICY**

The Minnesota Land Trust is committed to conducting all of its activities in a manner that protects the reputation of the Minnesota Land Trust and that complies with the legal obligations imposed upon it by virtue of its status as a nonprofit charitable organization and as a tax-exempt public charity.

Therefore, it is the policy of the Land Trust to identify and address all transactions involving conflicts of interest, potential conflicts of interest and other situations that may give rise to an appearance of a conflict of interest as set out below.

Whether or not specifically addressed by this policy, all decisions and activities of the board of directors and the staff are governed by an overriding requirement to act honestly and in good faith and in recognition of our responsibilities to the organization itself and to the communities in which we work.

Additional detail on this policy is set out below.

#### **FIDUCIARY RESPONSIBILITY**

Members of the board of directors, officers and employees of the Minnesota Land Trust owe a broad duty of loyalty and fidelity to the Land Trust.

They have a fiduciary responsibility to act in good faith and in a manner reasonably believed to be in the best interests of the organization itself in all decisions and actions undertaken on behalf of the Land Trust

They may not use their positions with the Land Trust to profit personally or professionally at the expense of the Land Trust or for the financial or other benefit of any other organization with which they are associated.

They have the responsibility to administer the affairs of the Land Trust honestly and prudently, using their best care, skill and judgment in caring out their responsibilities for the sole benefit of the Land Trust.

#### **AVOIDING PRIVATE INUREMENT AND EXCESS PRIVATE BENEFITS**

As a 501(c)(3) public charity, the Minnesota Land Trust must always operate exclusively for its charitable purposes and so that no part of its net earnings inure to the benefit of any private shareholder or individual.

This means that no *more than insignificant or incidental benefit* will be provided by the Land Trust to a private entity, including a party that is not related to the organization.

Additionally, the Minnesota Land Trust will not provide any *related party* with any benefit in excess of goods or services received by the Land Trust.

#### CONFLICT OF INTEREST: DEFINITION

A conflict of interest between the Minnesota Land Trust and a *related party* may exist when:

- A related party has a direct or indirect material financial or professional interest in an activity, situation or transaction in which the Land Trust is or may be involved.
- A related party uses or appears to be using proprietary information learned in the course of Land Trust business for his or her own benefit.
- A staff member or board member engages in activities that may cause a loss of public credibility or for the Land Trust or create a public impression of impropriety.
- A related party has the ability to exercise undue influence over the Land Trust.
- A related party receives or appears to be receiving favorable treatment because of the relationship with the Land Trust.

A financial interest of a related party in a transaction does not necessarily mean that a conflict exists or that the Land Trust cannot complete the transaction with the related party.

A conflict of interest may exist not only in transactions or activities between the Minnesota Land Trust and *related parties* but also in transactions or activities between the Land Trust and organizations or companies in which a *related party* has an ownership or investment interest or other controlling interest or with which a *related party* has a compensation arrangement.

The Land Trust must follow the process set out in this policy in analyzing any potential conflict.

#### CONFLICTS OF INTEREST: DISCLOSE. DISCUSS. DECIDE. DOCUMENT.

The Minnesota Land Trust recognizes the potential for the Land Trust, its board members and its staff to become involved in situations, activities or transactions that may result in a real or perceived conflict of interest.

In order to make sure that the interests of the Land Trust are properly protected, it is the policy of the Minnesota Land Trust that conflicts of interest or potential conflicts of interest will be handled as follows:

- All pertinent facts regarding the transaction or situation with a conflict or potential conflict of interest must be fully disclosed in a timely manner.
- The situation or transaction must be fully analyzed and discussed.
- A decision will be made as to how to proceed.
- The process and the decision will be properly documented.

Those who have authority and responsibility to make the decision regarding the project, activity or transaction in question will be involved in the discussion and responsible for the decision.

Specifically, all conflicts or potential conflicts involving board members will be disclosed to the board chair and dealt with by the board. All conflicts or potential conflicts involving staff members will be disclosed to and addressed by the President. Any finding by the President of a substantial conflict between a staff member and the organization shall be reported to the executive committee of the board.

The person for whom the conflict or potential conflict exists will not be involved in the decision.

Decisions regarding any board conflicts or potential conflicts will be reflected in the board meeting minutes. The President will maintain records on decisions regarding any staff conflicts.

#### RELATED PARTIES

For purposes of this policy, *related parties* are those individuals that have a unique position of authority or influence within the Land Trust or that have access to proprietary or other inside information.

This includes:

- Officers and members of the board of directors.
- Staff members.
- A spouse or close family member of a board or staff member.
- Major donors.

#### ANNUAL DISCLOSURE

At the beginning of each fiscal year, every board and staff member of the Minnesota Land Trust will provide a written statement acknowledging that they are familiar with the Minnesota Land Trust's Fiduciary Responsibilities and Conflicts of Interest policy and disclosing any relationships or transactions that are or may be in conflict with the policy and the interests of the Minnesota Land Trust.

## **BACKGROUND**

The Minnesota Land Trust's reputation is its most valuable asset. This policy is designed to protect that asset.

This policy recognizes the legal and fiduciary obligations and responsibilities that apply to the Land Trust and to its employees and staff members.

This policy also recognizes that the circumstances which might give rise to concerns about conflicts of interest or other situations in which the Land Trust's reputation might be comprised are incredibly varied. Therefore, the policy creates an approach to identifying and analyzing potential problems and concerns and allows decisions to be made based upon the specific situation.

To help illustrate this policy, the following are examples of situations that could be problematic and require careful scrutiny:

- The Land Trust contracts for legal services with a board member or the board member's law firm.
- The Land Trust acquires a conservation easement from a board member.
- A board member who owns property protected by a Land Trust easement asks for unusual concessions regarding a possible easement violation.
- A major donor asks the staff to consider hiring a relative.
- The Land Trust sells land or other property to a board member or other related party.
- A staff member negotiating a conservation easement tells a relative about the transaction and the relative suggests purchasing adjacent property.
- A staff member uses confidential donor information obtained while working with the Land Trust to help raise funds for another organization.
- A board member asks if a nephew can use an empty Land Trust office to set up his own appraisal business.

In some of these situations, proper disclosure and discussion may be adequate to allow the transaction to proceed. In other cases, the suggested transactions are simply inappropriate and should not be allowed.

The IRS has recently indicated that it will pay particular attention to land transactions between a Land Trust and a related party. These transactions will be given particular attention.

This policy replaces any prior Minnesota Land Trust policies on conflicts of interest.

Approved by the Board of Directors: March 15, 2007