Charitable Sales

Summary: The charitable sale (also known as bargain sale) is part sale and part gift. A landowner sells the property (or its development rights) to a qualified conservation agency at a value well below that of the market, and takes a financial loss as a result. The loss is viewed under IRS tax regulations as a charitable donation, which can then be used as an income tax deduction(s).

Qualifying Lands: In cases where properties are sold without involvement of a conservation easement, the requirements are only as strict as the qualified purchasing agency deems necessary. However, charitable sale properties must typically meet the requirements of a property under conservation easement, including such qualities as possession of significant natural, scenic or agricultural value.

Important Details: To meet IRS requirements for a charitable sale, language must be included in the sale contract that demonstrates the donative intent of the landowner. Additionally, a complete appraisal must be prepared by an appraiser who meets IRS qualifications that documents the fair market value of the property being sold.

Status in Lake County: Charitable sales are used in Lake County to help stretch dollars for the agency buying the property, while at the same time providing income tax relief to the sellers. However, as of yet, charitable sales have not been used in combination with purchase of development rights.

Benefits to Landowner: This sale arrangement provides landowners with the option of getting the best of both worlds – income from the sale and potentially large income tax deductions. In general, the landowner who will benefit most from a charitable sale is one who is in a higher income tax bracket and has relatively low investment in the property compared to the fair market value.

Tax Incentives: It is important to differentiate a charitable land sale from a charitable development rights sale. Land that is sold by way of charitable sale to a conservation organization provides the seller with a one-time income tax deduction, due to this charitable contribution. However, if a conservation organization purchases only the development rights of the property and now holds a conservation easement, then the seller is eligible for income tax deductions over several years. If the amount of money in the donated portion of a development rights sale is greater than 50% of the seller's adjusted gross income (AGI), the remaining balance of the donation can be carried over for up to an additional 15 years (provided the transaction is completed before the end of 2009). This is especially helpful for landowners having a large property value but not a high yearly income. The benefit is even greater for “qualified farmers” who can deduct 100% of their AGI for up to 15 additional years. However, in order to be a “Qualified farmer” one must get at least 50% of income from farming in the year of the charitable sale. It is important to note that for agreements completed after 2009, the income tax deductions drop down to 30% for a non-farmer, 50% for a qualified farmer, and the carryover is only 5 years.

Scenario: A family purchased a 50 acre farm in 1960 for $40,000. By 2008, the farm’s fair market value had increased to $500,000. If they decide to keep farming and sell their development rights to a land trust for a price of $100,000, they can count the difference between the property’s fair market value and the development rights sale price ($500,000 - $100,000 = $400,000) as a charitable donation. If the family's AGI is $50,000, they will get to deduct this entire amount for the next 8 years, therefore owing no income tax.