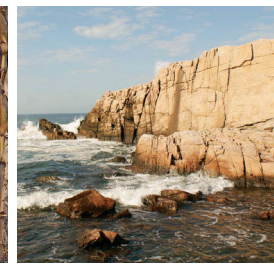




## Sakonnet Preservation Association



The Sakonnet Preservation Association, Inc.  
**Land Preservation Program**

# Dedicated to preservation for the

**In 1972**, the Sakonnet Preservation Association (SPA) was established as the first private, non-profit community land trust in Rhode Island. SPA's founding marked the beginning of a local land protection movement in the state that now boasts over 40 community land trusts. We can be proud of what has transpired since those early efforts of Little Compton residents.

SPA works with property owners, public agencies, and other private conservation organizations to permanently preserve and steward properties. A membership organization administered by a volunteer board of directors, SPA also serves to educate its members, young people and the community about conservation issues and practices through its public programming, school curriculum support, newsletters, volunteer opportunities and conservation walks.

*One way to open your eyes is to ask yourself, "What if I had never seen this before? What if I knew I would never see it again?"*

— RACHEL CARSON



# e lasting benefit of the community.

In SPA's first newsletter, President Philip B. Simonds stated the Board's objectives: '...the preservation of natural resources of the Town of Little Compton, including water resources, marshland, swamps, woodland and open spaces, and the plant and animal life which have always been so important a part of Little Compton's charm, as well as the preservation of open land areas of historical significance.' Since 1972, the SPA has protected over 430 acres of land.

SPA's Board of Directors meets monthly and each member serves on at least one Board committee. These dedicated volunteers are truly committed to fulfilling the vision of the first Directors in 1972.

In 2011, SPA earned accreditation with the national Land Trust Accreditation Commission. The accreditation seal is awarded to land conservation organizations that meet rigorous national standards for excellence, uphold public trust, and ensure that conservation efforts are permanent.







# Acquisition Criteria

SPA accepts both conservation easements and fee simple interest (outright ownership) to properties. Property owners may convey a variety of property interests to SPA by gift, sale, or will. To determine if a property has value for conservation with our organization, SPA shall use the following criteria as a guide:

**The property has one or more of the following characteristics:**

*(Parenthetical numerals refer to the Internal Revenue Code 170(h) definitions of "conservation purpose" used to determine eligibility for charitable gift deductions. [See page 4])*

- Land providing outdoor **public recreational opportunities (i)**
- **Habitat (ii)** for plant or animal species classified by the state or federal government as rare, endangered, or threatened
- **Farmland and/or forest (iii)**
- **Historically (iv)** important land area
- **Scenic view (I)** or key element within a scenic landscape
- Areas outlined in the **Little Compton Comprehensive Community Plan** and areas identified by **state and federal inventories (II)** as significant, natural, and/or scenic; and priority areas designated by SPA
- Exemplary or critical habitat for **plant or animal species** or populations not classified by the state or federal government as rare, endangered, or threatened
- **Rural** characteristics
- Land important for protecting quality or quantity of **surface or underground waters**, or for providing natural control of flooding
- **Land contiguous** or in close proximity to other protected land





### In addition, SPA must have:

- **Funds available** to cover acquisition and perpetual stewardship costs or a plan in place to acquire them
- **Capacity** to perform stewardship responsibilities

### Conservation purposes defined by the Internal Revenue Service

The language below is from the Internal Revenue Code defining the eligibility criteria for meeting the definition of “conservation purposes.” This test must be met in order for the Donor of a conservation easement to claim a charitable deduction on their federal income taxes.

#### 26 USCS § 170(h) Internal Revenue Code:

**(A) In general. For purposes of this subsection, the term “conservation purpose” means —**

- (i) the preservation of land areas for outdoor recreation by, or the education of, the general public,
- (ii) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,
- (iii) the preservation of open space (including farmland and forest land) where such preservation is —
  - (I) for the scenic enjoyment of the general public, or
  - (II) pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit, or
- (iv) the preservation of an historically important land area or a certified historic structure.

# Land Preservation Steps

When a landowner expresses interest in donating a conservation easement or property to SPA, the following steps are taken:

**1. The Landowner is provided with:**

- A copy of SPA's *Land Preservation Program Booklet*,
- An application form,
- Stewardship Funding Program description, and
- Other supporting materials.

**2. The Landowner completes and returns signed application and provides recorded survey, if available.**

**3. The Land Protection Committee:**

- Meets with the landowner,
- Conducts a site visit in order to evaluate each project according to land protection criteria adopted by the Board, and
- Completes the Project Selection Criteria Form.

**4. The Land Protection Committee:**

- Prepares an estimate of expenses SPA will likely incur for the execution of each project/transaction, including, but not limited to, expenses for appraisals, surveys, attorney's fees, baseline documentation, management plan, hazardous waste inspection, engineering fees, etc., and
- Prepares a Stewardship Reserve Fund and Transaction Costs Budget in anticipation of a voluntary, federal income tax-deductible contribution by the Donor/Seller. The Budget will cover the cost of SPA's perpetual stewardship responsibilities and acquisition expenses. (See page 8)

**5. The SPA:**

- Requests from each Donor/Seller a voluntary federal income tax-deductible contribution for the Stewardship Reserve Fund and explains the purpose of, and need for, such a contribution and Fund.
- If the actual contribution and/or pledge by the Donor does not cover projected acquisition and stewardship expenses, a supplemental funding plan must be approved by SPA prior to the acceptance of a conservation easement or fee property acquisition.

- 6. The Land Protection, Stewardship, and Finance Committees make a recommendation to the Board of Directors for acquisition and details:**
  - The property's conservation values,
  - The public benefit furthered by the project,
  - SPA's capacity to steward,
  - The resolution of any conflict of interest, and
  - A plan for acquiring the funds necessary to cover acquisition costs and required funding of the Stewardship Reserves.
- 7. Upon a determination by majority vote of the Board to accept a property, the Land Protection Committee, or such representatives as it may designate, are authorized to negotiate with the property owners and execute the transaction.**
- 8. On approval of the Board, the Land Protection Committee:**
  - Informs the landowner of the Board's decision,
  - Orders a Title Review,
  - Advises the landowner that they must engage an attorney to represent them during the transaction,
  - Advises the landowner that they must rely on their tax advisor when completing tax forms,
  - For conservation easements: orders the preparation of a Baseline Documentation Report, as required by IRS regulations, to be completed by closing,
  - For fee transactions only: prepares a Management Plan Summary or Management Plan by closing,
  - Requests a copy of the Donor's appraisal, and
  - Obtains a receipt indicating all Little Compton property taxes have been paid.
- 9. A Supplemental Package of materials is sent to the potential Donor/Seller containing:**
  - Relevant IRS regulations and forms,
  - The IRS Contiguous Parcel Rule, if appropriate,
  - SPA's IRS 8283 Signing Policy and Procedure, and
  - Any other materials which may assist the Donor/Seller.



# Land Preservation Steps *(continued)*

## 10. The Land Protection Committee:

- Reminds donor/seller that all taxes owed at the time of closing are the responsibility of the donor/seller.
- For fee transactions only: applies to the Little Compton Town Council for exemption from property taxes for fee acquisitions according to provisions of Section 15-1 of the Little Compton Town Code.

## 11. Final Steps at Closing:

- The Baseline Documentation Report Acknowledgement of Conditions Statement is signed and notarized by SPA's President, or authorized representative, and the Donor/Seller at closing.
- Two originals of the Baseline Documentation Report have each page initialed by the Donor/Seller and SPA's President, or an SPA officer designated by the President.
- Conservation Easement document is:
  - Signed by the SPA President (or designee),
  - Signed by the landowner,
  - Signatures are notarized, and
  - The document is recorded at the Little Compton Town Hall as soon as possible.

## 12. Following the Closing:

- SPA promptly sends the Donor a letter acknowledging the gift.
- In compliance with IRS regulations, SPA sends a letter to the Donor with SPA's Appraisal and IRS Form 8283 Signing Policy and Procedure; the IRS 8283 Form and its instructions; and requests a copy of the appraisal.

## 13. SPA's Long Term Responsibilities:

- Original Baseline Documentation Reports, Management Plans, Annual Stewardship Monitoring Reports, and supporting photographs taken during monitoring visits are stored in a secure off-site location according to SPA's adopted Records Policy.
- Annual stewardship monitoring reports, and any supporting photographs taken during monitoring visits, as well as any other information acquired with respect to the conserved property that represents change are used to regularly update Baseline Documentation Reports.

# Stewardship Funding Program

SPA's Stewardship Program ensures that all of SPA's easement and fee properties are carefully monitored on an annual basis. SPA is committed to upholding its legal and community obligations to preserve the conservation values of each and every property it accepts. To this end, a Stewardship Reserve Fund was established as a result of a gift from the Carter family in 2003. These funds represent SPA's commitment to addressing the long term expenses of monitoring, defending and enforcing the terms and restrictions of each acquisition in a consistent, timely manner.



A voluntary contribution is requested from land and conservation easement donors/sellers to ensure there are dedicated and sufficient resources available to monitor conservation easements and fee properties yearly, to build strong partnerships with easement landowners, maintain good relations with neighbors and provide a basis for continued community support for SPA's conservation efforts. It is the obligation of the organization to enforce and defend the legal rights pertaining to each property and to administer its stewardship responsibilities in a professional, timely and responsive manner as required by IRS regulations. A funding plan must be approved by the SPA Board which covers:

- Projected acquisition expenses (i.e. legal expenses, title reviews, appraisals, environmental assessment, insurance, administrative costs, etc.), and
- Stewardship expenses (i.e. baseline documentation reports, management plans, stewardship monitoring program, administrative costs, legal defense costs, etc.).

The funding plan, whether it consists of a tax deductible donor contribution, SPA funds, or a combination of the two, must be in place prior to the Board's vote to proceed with a donation or purchase of a conservation easement or a fee interest property.



# Land Acquisition Terms

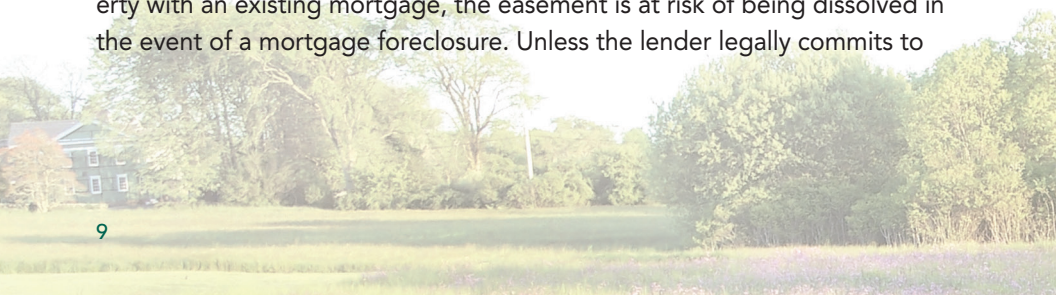
**Baseline Documentation Report:** The purpose of this report is to assess and document the current condition of the property at the time of acquisition, its uses and resources. This information enables SPA to a) evaluate the public conservation benefit of the easement donation, b) identify and document the significant features of the property to be protected, and c) guide future property monitoring and management.

**Conservation easement:** A legal agreement between a landowner and a conservation organization or government agency that permanently extinguishes residential development and limits a property's uses in order to protect the property's conservation values. Called a "conservation restriction" in some states; also may be called an agricultural preservation easement, historic preservation easement, scenic easement, or forever wild easement, etc., depending on the resources it protects.

**Fee simple interest:** Absolute ownership of property. (Ownership of "less than fee simple interest" in property is ownership of fewer than the total possible rights one may have in land.) When a landowner grants a conservation easement to a land trust, the land owner continues to own the land subject to the easement's restrictions.

**Management Plan:** A plan that identifies the resources and processes on the land that are to be protected and promoted, determines what actions to take or avoid, and designates who shall accomplish those objectives.

**Mortgage Subordination:** If a conservation easement is placed on a property with an existing mortgage, the easement is at risk of being dissolved in the event of a mortgage foreclosure. Unless the lender legally commits to





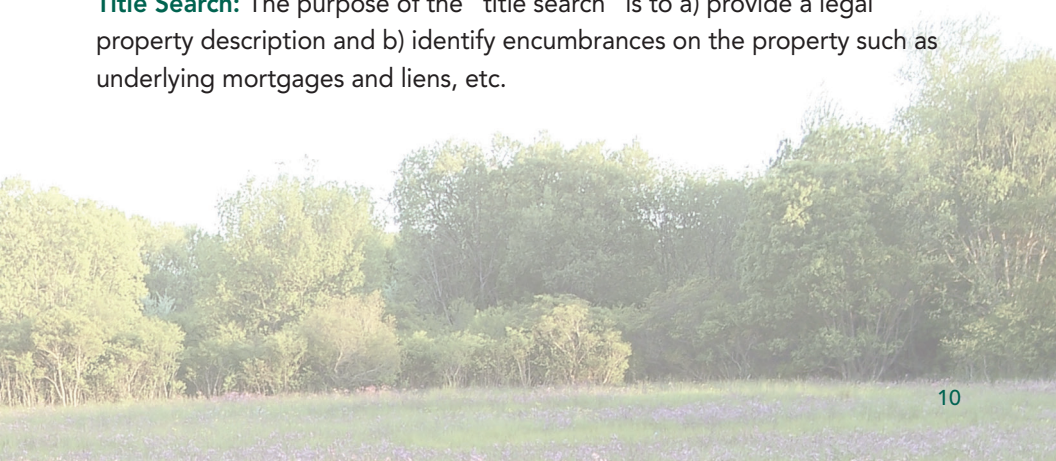


leaving the conservation easement intact, the easement's public benefits — and any public funds or private donations invested in the easement — could be lost.

A mortgage also prohibits landowners from claiming federal income tax deductions for an easement donation "unless the mortgagee subordinates its rights in the property to the right of the qualified organization to enforce the conservation purposes of the gift in perpetuity," according to Internal Revenue Code 170A-14(g)(2).

A mortgage subordination is an agreement in which a mortgage holder consents to give a conservation easement priority over the mortgage, although the mortgage was recorded prior to the easement. A lien or claim on the property is generally prioritized by the order in which it was recorded in the land records, as shown in a title search. "First in time; first in right" is generally the rule. Unless a previously recorded mortgage was subordinated to the conservation easement, and the subordination agreement was recorded immediately prior to the conservation easement, the conservation easement may be automatically extinguished if the lender forecloses on the mortgaged property.

**Title Search:** The purpose of the "title search" is to a) provide a legal property description and b) identify encumbrances on the property such as underlying mortgages and liens, etc.





# Land Preservation Policies

The Land Protection Committee shall engage an attorney to assist with all projects, review all potential land protection projects and transactions, make recommendations for action to the Board, and execute transactions as directed by the Board. The Committee reviews the potential projects and transactions according to the following policies:

- The Land Protection Committee and SPA shall respect and observe property owners' confidentiality during project negotiations.
- During the entire course of all transactions, SPA's adopted Conflict of Interest Policy shall be followed.
- The Land Protection Committee shall not offer legal or tax advice to Donors/Sellers.
- Especially with regard to conservation easements where a Donor seeks a tax deduction under the provisions of the Internal Revenue Code, as amended, a "qualified appraisal", and the cost of such, is the responsibility of the Donor.
- The Land Protection Committee shall follow SPA's adopted Appraisal and IRS Form 8283 Signing Policy and Procedure when a Donor seeks a tax deduction, and shall not knowingly participate in a transaction where SPA has significant concerns regarding a federal income tax deduction.
- The Land Protection Committee shall request an environmental hazards assessment where indicated.
- All survey bounds shall be set prior to closing, if possible.
- A joint recommendation by the Land Protection, Stewardship and Finance Committees for the acquisition of a fee property or conservation easement, including a funding plan, will then be presented to the Board.



- The Donor/Seller will be requested to provide SPA with any property survey which the Donor has. For a conservation easement transaction on a portion of a lot or a newly created lot, the Donor shall provide a Class I or Class II survey, as appropriate. The survey shall be approved by the Little Compton Planning Board and recorded at the Little Compton Town Hall prior to closing.
- The Land Protection Committee shall obtain a record of clear title and when necessary ensure mortgage subordination. The Donor will be asked to provide SPA with copies of any known Mortgages, Easements, or other encumbrances of which the Donor is aware.
- For fee simple purchases, the Land Protection Committee shall obtain an appraisal from a "qualified appraiser" and purchase title insurance.
- For fee property acquisitions, a Management Plan Summary shall be prepared by closing and a Management Plan completed within one year of closing.
- For conservation easements, the Land Protection Committee shall consider enlisting a backup easement holder.
- The Land Protection Committee shall ensure that donations of property interests are promptly and properly acknowledged, as provided in U.S. Treasury regulations.
- SPA's Model Conservation Easement shall be approved by the Executive Committee yearly and approved by the Board of Directors every five years.
- The Board of Directors shall review and approve the LPC's Policies and Procedures every five years.





## Conservation Options

Property owners may convey a variety of property interests to SPA by gift, sale, or will. SPA accepts conservation easements and fee simple interest (outright ownership) to properties.

### In addition, SPA may:

- Accept land which is to become a part of another organization's holdings or which shall be managed by local or state government for conservation-related purposes if those efforts advance SPA's objectives. SPA shall work actively with property owners and with other conservation groups and agencies to combine conservation strategies, funding, and other resources for the purpose of protecting land.
- Accept property from a Donor who expressly wishes the proceeds from the sale, rental, or other use of the property to benefit SPA ("Trade Lands"). In order to avoid confusion and ensure that the mission of SPA is met, the Deed for any such gift shall specifically state the purposes of the donation. Prior to selling or exchanging such land, the suitability of placing a conservation easement on the property shall be considered. SPA may continue to pay local property taxes on such property.
- Acquire property or conservation easements in development projects. Each project must meet the acquisition criteria in this document.





# Bequests

**There are many ways to include the Sakonnet Preservation Association in your estate plans:**

- Name SPA as a beneficiary of your retirement plan
- Leave a specific amount, percentage, or the residue of your estate to SPA
- Designate a particular asset to SPA (securities, real estate, artworks, etc.)
- Name SPA in the succession plan of your donor advised fund or family foundation
- Include SPA as a beneficiary of a testamentary or living trust
- Name SPA as a beneficiary of a life insurance policy

Please contact your attorney for the specialized legal language to ensure that your bequest intentions will be properly fulfilled.

*“When we see land as a community to which we belong,  
we may begin to use it with love and respect.”*

— ALDO LEOPOLD







*Sakonnet Preservation Association is a non-profit organization that depends on your membership and contributions to fund land protection, land owner outreach and stewardship, educational programs, mapping projects, and newsletters. Please consider becoming a member or making a donation to support the conservation of Little Compton's scenic, agricultural, and historic landscape.*



Membership information may be found on our website:  
**[www.sakonnetpreservation.org](http://www.sakonnetpreservation.org)**

**The Sakonnet Preservation Association, Inc.**

7 South of Commons

P.O. Box 945

Little Compton, RI 02837-0945

Phone/Fax: 401.635.8800

E-mail: [spa.lc@verizon.net](mailto:spa.lc@verizon.net)