

## Lessard-Sams Outdoor Heritage Council

**MEMO:** Agenda Item #9B  
**DATE:** December 9, 2021  
**SUBJECT:** Land Valuation Process  
**PRESENTER:** LSOHC Staff

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### Suggested Motion:

Motion by Member XX directing .....?

### Background:

At the October 7, 2021 meeting of the LSOHC, Council amended to the Chairs' Recommendations Proposal the following:

Regarding HA02 "Dakota County Habitat Protection/Restoration, Phase VIII," Council recommended to allow Dakota County to use a revised easement acquisition appraisal system like BWSR uses for RIM, but with OHF monies to bear no more than the appraised value of the easement. Additional costs above that value must be paid for by Dakota County with non-OHF monies.

Staff Note: The Council did not delineate a stated maximum percentage over the appraised value that Dakota County would be required to abide by.

Since the October 7 meeting, LSOHC staff has received inquiries from other NGOs asking if they too could receive the same accommodation the Council is recommending to provide Dakota County, allowing them to pay above the appraised value for acquisitions (a deviation from historic practices and guidance).

LSOHC staff contacted House and Senate non-partisan legal staff, and DNR Grants Management staff, to determine if the allowance to Dakota County was legal and/or advisable. From those contacts, the following information was provided:

- There is statutory guidance with specific application to DNR that acquisition in fee or interests in land should not exceed 110% of the appraised value.
  - MS 84.0272, subd 1 "...The commissioner of natural resources may pay less than the appraised value, but shall not agree to pay more than ten percent above the appraised value, except that if the commissioner pays less than the appraised value for a parcel of

land, the difference between the purchase price and the appraised value may be used to apply to purchases at more than the appraised value...”

- The above reference MS84.0272 applies specifically to DNR acquisitions.
- To date, Grants Management and LSOHC have adhered to MS84.0272 guidance as a general rule for all acquisitions.
- Grant Management’s Attachment E “Land Acquisition Reporting Procedures” caps all acquisitions at 110% of appraised value.
- Limiting the use of OHF monies by Dakota County to cover “not more than the appraised value” could be argued as maintaining due diligence in the use of the public OHF monies.
- If an entity is allowed to pay over and above the appraised value for an acquisition with additional non-OHF monies, it may be advisable for the Council to recommend the “over and above” amount to be capped at a specific percent level. For instance, 110% of the easements appraised value. This would keep “maximum” acquisition prices in line with current statutory guidance and practice and would be less apt to interfere with actual appraised values, or inadvertently incentivize “appraisal shopping.”
- Specific language with any Council recommendation allowing or capping acquisition payment levels can be delineated in a final accomplishment plan to be reviewed and approved in June 2022.
- LCCMR’s funding recommendations of Environment & Natural Resources Trust Fund monies utilize specific rider language restricting amounts that their grant recipients may pay for fee and/or easement acquisition. Their basic rider language is as follows:
  - *(h) For any acquisition of lands or interest in lands, a recipient of money appropriated under this section must not agree to pay more than 100 percent of the appraised value for a parcel of land using this money to complete the purchase, in part or in whole, except that up to ten percent above the appraised value may be allowed to complete the purchase, in part or in whole, using this money if permission is received in advance of the purchase from the Legislative-Citizen Commission on Minnesota Resources.*