

Standards and Practices

Practice 12C3 is an accreditation indicator element. Watch for an update to this narrative in early 2018 after the Commission finalizes the accreditation requirements.

STANDARD 12

C. Inspecting Land Trust Properties

- 3. Address management problems, including encroachments, trespass and other ownership challenges, in an appropriate and timely manner and document the actions taken

WHY ADDRESS ISSUES IN A TIMELY MANNER

Land trusts may face a broad suite of management problems that, left unchecked, can lead to long-term damage and possibly loss of property. Therefore, it is essential for land trusts to address problems in a timely manner.

- *Encroachment.* Laws vary from state to state, but encroachment, such as road construction, land clearing or use, timber theft, borrow pit extraction, dumping or squatting that is not addressed in a timely manner may be subject to a statute of limitation for complaint and corrective action. Thus, it is the owner's duty to be aware of trespass or unauthorized activities so that the land trust can make a proper response. In some states, long-term squatting can result in the visitor making a claim to the property.
- *Trespass.* Use of conservation property that is inconsistent with the management plan and guidelines of the land trust can lead to significant natural resource damage or could result in the land trust inadvertently granting an impermissible private benefit to the trespasser.
- *Other management issues.* Land trusts' management plans should identify activities to achieve the overall management goals for the property and to reduce any risks or threats to the conservation values (see [Practice 12B1](#)). Addressing problems early can reduce negative impacts to conservation values, which can ultimately save the land trust time and resources.

PROCEDURES TO RESPOND TO MANAGEMENT PROBLEMS

Most management problems are identified through the annual inspections of conservation properties (see [Practice 12C2](#)). A prudent land trust will also pay attention to activities on neighboring properties, as well as its own, so that the organization can guard against disturbances that cross the land trust's boundaries, such as logging, bulldozing or other activities that can diminish conservation values. Many land trusts develop a policy or procedure to ensure that, if a violation is observed, the land trust is prepared to respond quickly and effectively to limit damage. This policy or procedure should identify who in the organization is responsible for dealing with management problems, who should contact the offending party (if the perpetrator is known), who should report the issue to police or other appropriate office, how issues should be addressed and who will document the actions taken to address problems. Current contact information for police, fire, conservation officers and other emergency services should be maintained in the land trust office. Inspectors who encounter unauthorized activity should be cautious about confronting the perpetrator and follow the land trust's procedures for dealing with violators and general safety practices.

- *Encroachment.* Land trusts should deal immediately and forthrightly with any encroachment on their property. Encroachment problems may include timber harvesting, grazing, road building, dredging, construction, dumping and squatting. Understanding property boundaries (see [Practice 12C1](#)) and having them marked appropriately will help inform neighbors and others of the land trust's property. In cases where property rights or other legal problems exist, the land trust should seek an attorney's opinion about what action is appropriate. Generally, it is preferable to negotiate with the party responsible for the problem, but the land trust needs to be prepared to litigate if necessary to protect its properties and its standing. Therefore, it is important to have a legal defense fund and maintain relationships with qualified lawyers.
- *Trespass.* This varies depending on the allowed uses of the property. Examples include hunting, building hunting stands, ATV use, mowing, camping, bonfires and so on. Ensuring boundaries are marked and the rules of the property are posted help improve the understanding of what is and is not allowed, ultimately building better relationships with users. Activities that are illegal can be reported to police, and other activities may require legal advice to ensure that the land trust operates in accordance with the law.
- *Other management issues.* Examples include damage resulting from storms, insect infestations, fire, flooding and so forth. Land trusts should make conscious decisions regarding any appropriate response. Often such issues may require consultation with outside experts to determine the best course of action and whether remedial action is appropriate or possible.

Stewardship events at specific properties are often held as a way to enlist volunteers to help address problems such as invasives or clearing from storm damage.

HOW TO DOCUMENT PROBLEMS AND ACTIONS

It is essential that the land trust carefully document all observations of management problems in a timely manner and retain the records consistent with the land trust's recordkeeping policy (see [Practice 9G1](#)). The documentation can be a memo to the file, an inspection report, a video or an entry in a database. In the event a problem requires law enforcement or potential legal action, it is especially important to document all actions taken, as well as any responses received from third-parties. In addition to potentially needing them for legal action, having photographs of the problems aids in keeping others in the organization informed, such as committees and the board, and helps document progress in addressing the problems.

When events occur that have substantial impacts on the management goals and objectives for the property, the land trust should review the management plan and make adjustments as necessary.