GUIDE TO DONORS

MAD RIVER VALLEY HOUSING COALITION “AFFORDABLE LAND INITIATIVE”

BACKGROUND

The critical need for affordable*, workforce housing in the Valley has been well documented. Land values in the Valley are very high relative to wages and incomes of permanent residents and others who desire to become residents. Many of the people who work in the Valley cannot afford to live here. This is the problem that the Affordable Land Initiative program is trying to address.

With very rare exception, even the least expensive parcel in the Valley is too expensive for the development of affordable, workforce housing. Site development costs only exacerbate the problem. Because relatively low cost building sites are required to make housing affordable, a way to acquire land, - at much less than market rates – is required.

The Mad River Valley Housing Coalition (MRVHC), which is a 501(c) (3) tax exempt, non-profit corporation, would like to accept donations of land for single and multifamily workforce housing - for both owner occupied and rental houses. The land will be held by MRVHC and then sold to lower income individuals and/or affordable housing developers – like Central Vermont Community Land Trust, Habitat for Humanity, and others – at below market, affordable prices.

DONATION DETAILS

The MRVHC is looking for donations of property from individuals and businesses. There are large parcels in the Valley from which one or two small parcels on the perimeter could be subdivided that would not negatively impact the use and enjoyment of the larger parcel by its owner or interfere with future development opportunities. Larger parcels could be used for multifamily dwellings and/or excess land could be transferred to a conservation organization or sold to help fund MRVHC operating and transaction costs.

There are several ways to donate land:

1) **Outright gift.** The MRVHC would prefer an outright donation of land, transferred by deed. Especially for donors who own land that has highly appreciated in value, a gift can maximize tax savings. The amount of charitable deduction is based on the full current market value of the land and any capital gains taxes that would have resulted from selling the property can be avoided, if the property has been owned for more than one year.

2) **Donating a remainder interest in land.** An outright donation is not the only way to give land. A donor could continue to live on the land by donating a remainder interest and retaining a reserved life estate. In this arrangement, the land is donated during the donor’s lifetime, but the donor can continue to live on and use the property. When the donor dies (or sooner if the donor chooses), the MRVHC would gain full title and control over the property. By donating a remainder interest, the donor can continue to enjoy the land and may be eligible for an income tax deduction when the gift is made. The deduction is based on the fair market value of the donated property less the expected value of the reserved life estate.

3) **Donating land by will.** A donor could continue to own and control the land during their lifetime, but make a current obligation to donate it by will.

4) **Charitable Sale.** A charitable sale (sometimes called a "bargain sale") is a sale of land for less than fair market value. Technically, in a charitable sale, a portion of the value of the land is sold and a portion is donated. The landowner is able to take a charitable deduction determined by the difference between the sales price and the appraised fair market value. Although the sale portion may generate a capital gain, the donated portion will produce a charitable donation that will help to offset the gain.

BENEFITS OF DONATING LAND

There are many potential benefits to a donor for providing their land to the MRVHC for affordable, workforce housing, in addition to the satisfaction that would come from providing a great service towards the well being of the community. Donating land eliminates the expense and responsibility of managing the land, and can provide substantial federal and state income tax deductions, property tax savings, and estate tax benefits from removing the property from the donor’s estate. Capital gains taxes that would have resulted from selling the property can be avoided which could be significant for highly appreciated property. Donors can fulfill their charitable goals without disrupting their investment portfolios or current cash flow.

NOTE: The MRVHC will provide copies of its IRS Tax Exemption Letter, Articles of Association, and By Laws to any potential donor.

EXAMPLES

1) Outright gift of land

Landowner A donates 2 acres of a 10 acre parcel to the MRVHC that was originally purchased 20 years ago for $ 5,000 an acre. The fair market value of the 2 acre portion is $ 50,000. Landowner A may take an income tax charitable deduction for the full fair market value of the land as of the date it is transferred. There will be no capital gains taxation on $ 40,000 of appreciated value, which otherwise would be due at the time of a sale. The actual income tax savings realized will depend on the donor's income tax bracket. Since the deduction comes "off the top," it removes the most heavily taxed income. For example, at a 33% tax bracket the income tax savings would be $ 16,500.

As with other charitable gifts, the amount of the deduction that can be used in any one tax year is limited to a percentage (often 30 percent) of adjusted gross income for that tax year. However, the five-year carry-over rules apply.

2) Charitable sale

Landowner B sells a 2 acre parcel to the MRVHC that was originally purchased 20 years ago for $ 5,000 an acre. The fair market value of the 2 acres is $ 50,000, but Landowner B sells it to the MRVHC for $ 10,000. This is partly a charitable contribution and partly a sale. The landowner is able to take a charitable deduction determined by the difference between the sales price and the appraised fair market value, or $ 40,000 in this case. For example, at a 33% tax bracket the income tax savings would be $ 13,200. There will be fewer capital gains that would accrue than in a sale for full value. Capital gains tax is imposed on the difference between the acquisition price of the portion sold and the selling price, in this case $ 8,000 resulting in $ 1,200 in taxes. In addition to receiving the $ 10,000 purchase price, the net tax savings would be $ 12,000.

PROCEDURES FOR MAKING A DONATION OF LAND

Upon initial inquiry or conversation regarding a potential donation, the MRVHC may request some appropriate supporting documentation. Our representatives will then visit the property to determine the nature and type of the property and to identify any potential problems that might hinder or prevent the construction of affordable housing. It will also be necessary to have an engineering determination of on-site septic feasibility and the absence of any environmental concerns. The MRVHC will have the title examined to determine that title to property is free and clear except for current real estate taxes and restrictions of record which would not frustrate the purpose of the donation.

Early in the process the MRVHC and the Donor will agree in writing on arrangements for paying expenses associated with the property, such as commissions, real estate taxes, engineering studies, subdivision costs (surveys, permits, fees, etc.). Generally, the MRVHC will have limited funds for such expenses. The donor will be responsible for obtaining a qualified appraisal complying with IRS regulations for the purposes of establishing the value of the gift for federal income tax purposes, including the preparation of Form 8283 (“Noncash Charitable Contributions”). It is the donor’s responsibility to prepare the deed and other instruments which are necessary to transfer the property to the MRHVC. In the case of a sale by the MRVHC within three years of the date of the gift, the MRVHC will report the actual sales proceeds to the IRS on Form 8282 (“Donor Information Return”).

DISCLAIMER

The information in this Guide is not intended as legal, accounting, or other professional advice. While gifts of real estate can be extremely beneficial and satisfying, they require careful planning and appropriate legal, financial and tax advisors should be consulted for advice and information on applicable state and federal laws.

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[*] Affordable housing is generally recognized to be housing that is either (1) owned by its inhabitants, whose gross annual income does not exceed 80 percent of the county median income, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance is not more than 30 percent of the household’s gross annual income, or (2) rented by its inhabitants whose gross annual does not exceed 80 percent of the county median income, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household’s gross annual income.