

2. In order to determine the extent of crop loss, the Committee shall utilize the methodology contained at N.J.A.C. 2:76-11.6.

Emergency amendment R.1999 d.317, effective August 20, 1999 (to expire October 19, 1999).

See: 31 N.J.R. 2646(a).

Added (c).

Adopted concurrent proposal, R.1999 d.390, effective October 19, 1999.

See: 31 N.J.R. 2646(a), 31 N.J.R. 3625(a).

2:76-8.6 Appraisals

(a) If the Committee grants preliminary approval of the offer for fee simple purchase, it shall select two independent professional appraisers from among members of recognized organizations of real estate appraisers to perform appraisals on the offered farmland.

(b) Upon completion of the appraisals, the appraisers shall forward the appraisal reports to the Committee.

(c) The Committee shall appoint a review appraiser to evaluate the two appraisals and establish a recommended fair market value for the property.

2:76-8.7 Final Committee action

(a) Upon receipt of the fair market value determination, the Committee shall either:

1. Approve the purchase of the parcel at a maximum purchase price; or
2. Disapprove the application and state the reasons for the denial.

(b) The Committee may authorize staff to negotiate with the landowner for a purchase price less than the appraised fair market value.

SUBCHAPTER 9. EMERGENCY ACQUISITION OF DEVELOPMENT EASEMENTS

2:76-9.1 Scope

This subchapter sets forth the emergency conditions under which the State Agriculture Development Committee (SADC) may provide up to 100 percent funding for the purchase of development easements on farmland pursuant to N.J.S.A. 4:1C-31(c)-(e) as amended.

2:76-9.2 Emergency purchase conditions

(a) If the SADC determines that there is a substantial likelihood that the use of the land will change from productive agriculture to non-agriculture, the SADC may provide up to 100 percent of the cost of development easements on the following:

1. On farmland which conforms to the priority criteria set forth in N.J.A.C. 2:76-6 and where the SADC determines that the purchase would be in the interest of the State regardless of whether the respective county agriculture development board (CADB) is willing to provide funds for the purchase.

2. On farmland which conforms to the priority criteria set forth in N.J.A.C. 2:76-6 and where both the SADC and the respective CADB determines that the purchase is in their respective interests and no county funding is immediately available.

(b) The SADC may require the county to provide additional cost share funds beyond those currently required for future purchases of development easements in the event of the 100 percent SADC funding pursuant to (a)2 above.

SUBCHAPTER 10. APPRAISAL HANDBOOK STANDARDS

2:76-10.1 Applicability

This subchapter provides the standards contained in the State Agriculture Development Committee's appraisal handbook for independent professional appraisers to follow when conducting appraisals of farmland for the purpose of acquiring a development easement pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, as amended.

2:76-10.2 Definitions

As used in this subchapter, the following words and terms shall have the following meanings:

"Agricultural value" means the value of the property based solely on its agricultural productivity which does not take into account alternative uses for the property.

"Agricultural market value" means the market value of property with a present and future highest and best use for agricultural production. This includes consideration of exposure on the market and competition for agricultural property among farmers.

"Appraiser handbook" means a document prepared and adopted by the Committee which identifies the standards for conducting appraisals which shall be available to the boards.

"Board" means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a subregional agricultural retention board established pursuant to N.J.S.A. 4:1C-17.

"Committee" means the State Agricultural Development Committee established pursuant to N.J.S.A. 4:1C-4.

"Development easement" means an interest in land, less than fee simple absolute title thereto, which enables the owner to develop the land for any nonagricultural purpose as determined by and acquired under the provisions of N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and any relevant rules or regulations promulgated pursuant thereto.

"Exceptions", unless the text indicates otherwise, means portions of the applicant's land holdings which are not to be encumbered by the deed restrictions contained in N.J.A.C. 2:76-6.15.

"Hydrologically limited area" means those areas which are designated as freshwater wetlands, transition zones, 100 year flood hazard areas, hydric soils, State open waters, State-owned riparian lands, or otherwise lack or have limited development potential due to excessive water.

"Market value restricted" means the market value of property subject to the deed restrictions placed on the title of the property as set forth in N.J.A.C. 2:76-6.15.

"Market value unrestricted" means the market value that a property will bring in the open market under all conditions requisite for a fair sale and which value includes all rights of fee simple ownership.

"Subject property" means the property being considered for the purchase of a development easement.

2:76-10.3 Appraisal report format

(a) The appraisal reports prepared by the independent appraiser pursuant to N.J.S.A. 2:76-6.7 shall follow the following format:

1. Summary;
2. General information;
3. Property valuation before development easement acquisition (market value unrestricted);
4. Property valuation after development easement acquisition (market value restricted);
5. Final estimate of development easement value; and
6. Addendum.

(b) The requirements for each section of the appraisal reports are described in N.J.A.C. 2:76-10.4 through 10.9.

2:76-10.4 Summary

(a) The summary section of the appraisal report shall contain the following:

1. A letter of transmittal which shall include the development easement value expressed as a per acre value and a total value;

2. A certification of appraisal which shall include the market value unrestricted, market value restricted, development easement value, date of valuation and the signature of the appraiser responsible for the report;

3. A summary of salient facts and important conclusions which shall include any other information which the appraiser deems relevant. The format shall conform with the sample, Appendix A of this subchapter, incorporated herein by reference; and

4. A table of contents which shall include the topic listings contained in the appraisal report with corresponding page numbers. The format shall conform with the sample, Appendix B of this subchapter, incorporated herein by reference.

2:76-10.5 General information

(a) The general information section of the appraisal report shall contain the following:

1. The purpose of the appraisal which estimates the market value of the development easement on the subject property as restricted pursuant to N.J.A.C. 2:76-6.15;
2. A statement of the rights being valued:
 - i. Market value unrestricted;
 - ii. Market value restricted; and
 - iii. Development easement value;
3. A section defining the legal and technical terms of the report;
4. Any assumptions and limiting conditions;
5. A section identifying the subject property by municipal tax map block and lot or other means. The subject property and its current use shall be briefly described;
6. Zoning and assessment information; and
7. Information detailing community and neighborhood data. This shall include, but not be limited to, the character of the community, land use trends, degree of development pressure in the area and any other information which may impact the market value unrestricted.

2:76-10.6 Property valuation before development easement acquisition (market value unrestricted)

(a) The property valuation before development easement acquisition (market value unrestricted) section of the appraisal report shall contain the following:

1. A description of the subject property including all physical attributes and improvements which shall include, but not be limited to:

i. A discussion of the topography, soil characteristics, hydrologically limited areas, state owned or privately held riparian lands, frontage, configuration, dwellings, outbuildings and other appropriate characteristics;

ii. Any rejected, approved, or pending subdivision plans;

iii. Any residual dwelling site opportunities allocated to the subject property pursuant to N.J.A.C. 2:76-6.17. (The appraiser shall not incorporate the effect of the value of residual dwelling site opportunities into the valuation);

iv. Any exceptions to the subject property. (The appraiser shall incorporate the effect of the value of exceptions into the valuation); and

v. The estimated acreage of hydrologically limited areas.

(b) A detailed discussion of the subject property's highest and best use based upon its characteristics as set forth in this section.

(c) A determination of the subject property's market value unrestricted. The appraiser shall consider the effect of building and improvements when conducting the valuation, but only the market value of the land is required to be identified.

1. The appraiser shall consider the direct sales comparison method of valuation which shall be based on a comparison of the relevant vacant acreage sales to the subject property. At a minimum, the report shall address the following:

- i. Grantor/grantee;
- ii. Deed date/recording date;
- iii. Deed book and page;
- iv. Sale price;
- v. Property size;
- vi. Location, block and lot;
- vii. Soil types/percent tillable soils;
- viii. Frontage/access;
- ix. Conditions of sale;
- x. Color photograph(s);
- xi. Improvements;
- xii. Utilities;
- xiii. Easements;
- xiv. Verification; and
- xv. Legible copy of subject tax map.

2. The appraiser shall adjust the comparable sales to include salient characteristics in the market which may include, but not be limited to the following: soil characteristics, zoning, topography, hydrologically limited areas, riparian lands (state owned or privately held), date of sale and financing.

i. The appraiser shall provide a land sale comparative rating grid in conformance with the sample, Appendix C of this subchapter, incorporated herein by reference.

ii. The final estimate of value shall be expressed as a per acre figure and a total value for the property.

3. In addition, the appraiser may consider the following methods of valuation:

- i. Subdivision method;
- ii. Income capitalization method; and
- iii. Cost method.

4. The appraiser shall provide a value conclusion which identifies the final market value unrestricted for the subject property and discuss how the conclusion was determined.

2:76-10.7 Property valuation after development easement acquisition (market value restricted)

(a) The property valuation after development easement acquisition (market value restricted) section of the appraisal report shall contain the following:

1. A description of the subject property in conformance with N.J.A.C. 2:76-10.6(a)1. In addition, an evaluation of the deed restrictions contained in N.J.A.C. 2:76-6.15 and their effect on the subject property, the subject property's adaptability for agricultural use or other uses which are not in conflict with the deed restrictions, soils and their productivity and other items which are significant to the valuation of the subject property;

2. A detailed description of the subject property's highest and best use as encumbered by the deed restrictions. The highest and best use analysis shall consider the following:

- i. The legality of possible use;
- ii. The physical possibility of use;
- iii. The probability or likelihood of use; and
- iv. The economic feasibility of use.

3. A determination of the subject property's market value restricted. The appraiser shall consider the effect of buildings and improvements when conducting the valuation, but only the market value of the land is required to be identified.

i. The appraiser shall consider the direct sales comparison method of valuation which shall be based on a

comparison of the relevant vacant acreage sales to the subject property as encumbered by the deed restrictions. The appraiser shall consider the following types of land sales;

- (1) Deed restricted properties;
- (2) Physically limited properties;
- (3) Flood plain;
- (4) Low development pressure; and
- (5) Development easements.

ii. The appraiser shall adjust the comparable sales to include, but not be limited to, the following: soil characteristics, zoning, hydrologically limited areas, date of sale and financing.

(1) The appraiser shall provide a land sale comparative rating grid in conformance with the sample in Appendix C.

(2) The final estimate of value shall be expressed as a per acre value and a total value for the property.

iii. In addition, the appraiser may consider the following methods of valuation:

- (1) Income capitalization; and
- (2) Cost approach.

2:76-10.8 Final estimate of development easement value

(a) The final estimate of development easement value section of the appraisal report shall contain the following:

- 1. The estimated development easement value which is arrived at by the difference between the market value unrestricted and the market value restricted and reported as a per acre value and total value of the property;
- 2. A discussion of the rights represented by the value conclusion and resultant changes in the highest and best use of the unrestricted versus the restricted property; and
- 3. A summary of the major points of the report which support the final estimate of value.

2:76-10.9 Addendum

(a) The addendum section of the appraisal report shall contain the following:

- 1. A subject property location map;
- 2. A subject property tax map or survey;
- 3. Soils/flood/topographic maps;
- 4. A study of hydrologically limited areas (if appropriate);
- 5. Subject property photos (color);

- 6. Reference materials, studies, articles, or other data considered important;
- 7. Development easement deed restrictions; and
- 8. The appraiser's qualifications.

APPENDIX A

SUMMARY OF SALIENT FACTS AND IMPORTANT CONCLUSIONS

PROPERTY LOCATION

PROPERTY TYPE

LAND SIZE

ZONING

HIGHEST AND BEST USE

DATE OF VALUATION

	PER ACRE	TOTAL
ESTIMATE OF PROPERTY VALUE "BEFORE":	_____	_____
ESTIMATE OF PROPERTY VALUE "AFTER":	_____	_____
ESTIMATE OF DEVELOPMENT EASEMENT VALUE:	_____	_____

APPENDIX B

TABLE OF CONTENTS

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Definitions	00
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General Property Identification and Description	00
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PROPERTY VALUATION, BEFORE DEVELOPMENT EASEMENT ACQUISITION (MARKET VALUE UNRESTRICTED)	
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PROPERTY VALUATION AFTER DEVELOPMENT EASEMENT ACQUISITION (MARKET VALUE RESTRICTED)	
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Sales Grid00
 Value Conclusion00

Source and Effective Date

R.1999 d.390, effective October 19, 1999.
 See: 31 N.J.R. 2646(a), 31 N.J.R. 3625(a).

FINAL ESTIMATE OF DEVELOPMENT EASEMENT VAL-
 UE

ADDENDUM

Subject property location map00
 Subject property tax map or survey00
 Soils/flood/topographic maps00
 Study of hydrologically limited areas00
 Subject property photos00
 Reference materials, etc.00
 Development easement restrictions00
 Appraiser's qualifications00

Subchapter Historical Note

Subchapter 11, Committee Acquisition of Farmland Development Easements, was adopted as Emergency New Rules by R.1999 d.317, effective August 20, 1999, to expire October 19, 1999. See: 31 N.J.R. 2646(a). The provisions of R.1999 d.317 were readopted as R.1999 d.390, effective October 19, 1999. See: Source and Effective Date.

2:76-11.1 Applicability

This subchapter applies to transactions in which the State Agriculture Development Committee purchases development easements on farmland pursuant to the Garden State Preservation Trust Act, P.L. 1999, c.152. In order to receive the priority consideration contained in N.J.A.C. 2:76-8.5, the landowner must be an established farmer as defined in 7 C.F.R. § 1945.154. In order to receive the priority an applicant who conducts the farming operation as an individual must manage the farming operation. If the applicant is another entity, at least one stockholder, member, partner or joint operator must manage the farming operation.

2:76-11.2 Definitions

As used in this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

“Board” means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a subregional agricultural retention board established pursuant to N.J.S.A. 4:1C-17.

“Committee” means the State Agriculture Development Committee established pursuant to N.J.S.A. 4:1C-4.

“Development easement” means an interest in land, less than fee simple title thereto, which interest represents the right to develop that land for all nonagricultural purposes and which interest may be transferred under laws authorizing the transfer of development potential.

APPENDIX C

LAND SALE COMPARATIVE RATING GRID

Sale No.	1	2	3
Sale Price	\$ _____	\$ _____	\$ _____
Reflects in Units	\$ _____/AC	\$ _____/AC	\$ _____/AC
Date of Sale	_____	_____	_____
Conditions of Sale	_____ %	_____ %	_____ %
Financing	_____ %	_____ %	_____ %
Time Adjustment	_____ %	_____ %	_____ %
Total Adjustment	_____ %	_____ %	_____ %
Adjusted Sales Price	\$ _____	\$ _____	\$ _____
Location	_____ %	_____ %	_____ %
Size	_____	_____	_____
Frontage	_____	_____	_____
Topography	_____	_____	_____
Zoning	_____	_____	_____
Easements	_____	_____	_____
Wetlands	_____	_____	_____
(Hydrologically limited areas)	_____	_____	_____
Soils	_____	_____	_____
Other	_____	_____	_____
Net Adjustment	_____ %	_____ %	_____ %
Value Indicated to Subject by Unit	\$ _____/AC	\$ _____/AC	\$ _____/AC

SUBCHAPTER 11. COMMITTEE ACQUISITION OF FARMLAND DEVELOPMENT EASEMENTS

Authority

N.J.S.A. 4:1C-5(f); P.L. 1999, c.152, § 42.