

Colorado Coalition of Land Trusts  
Annual Conference  
Conservation Excellence 2011

WHAT TO APPRAISE &  
HOW TO PLAN

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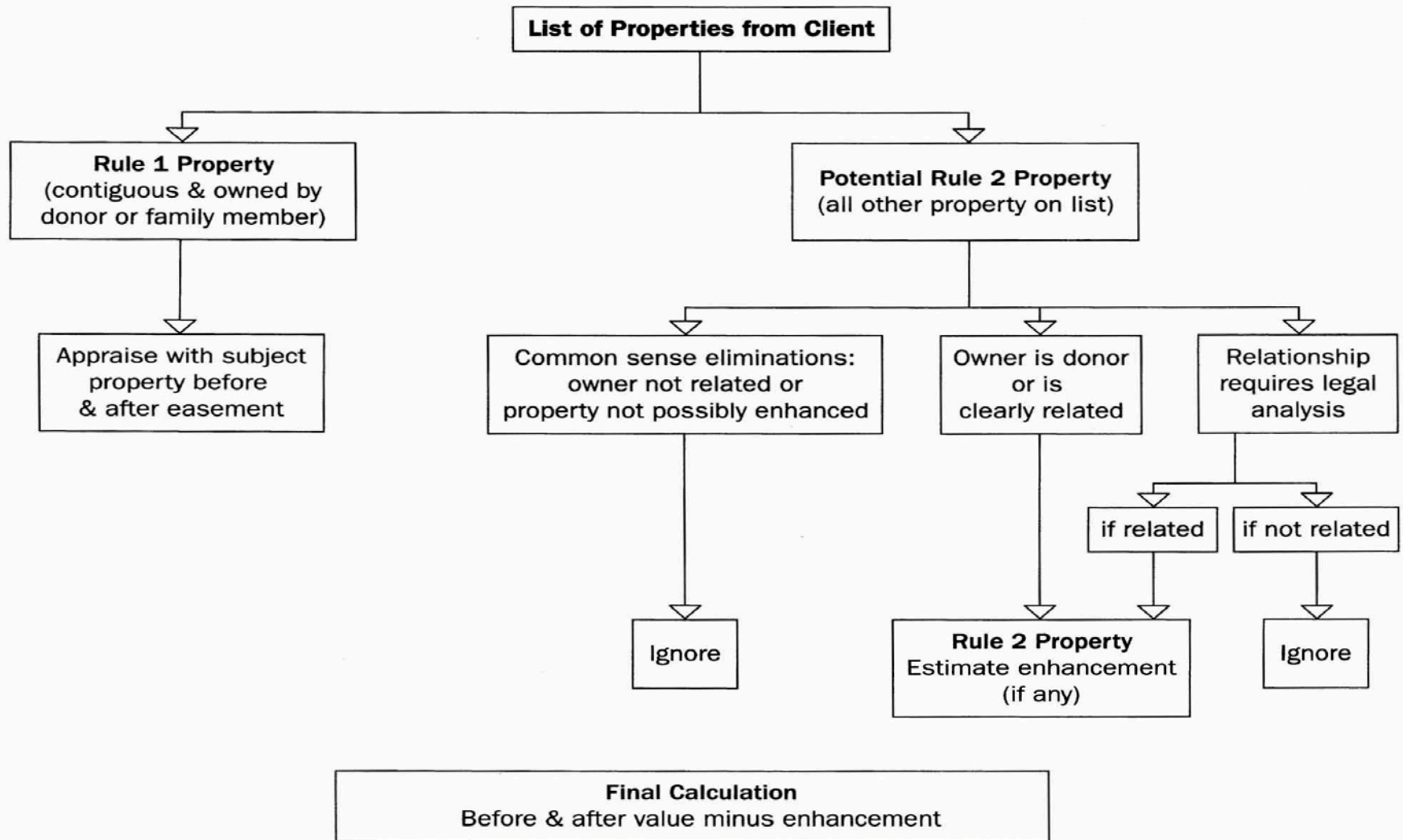
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**Figure 1 Step-by-Step Enhancement Analysis**



# IDENTIFY PROPERTY OWNED BY DONOR AND FAMILY

Treas. Regs.

Section

1.170A-

14(h)(3)

- ⊙ What land is contiguous to the land to be encumbered by the conservation easement, that is owned by:
  - ⊙ Donor
  - ⊙ Donor's family members

# DONOR'S FAMILY MEMBERS

Defined in  
I.R.C.  
Section  
267(c)(4)

- ⊙ Brothers and sisters
- ⊙ Spouse
- ⊙ Ancestors
  - ⊙ Parents and Grandparents
- ⊙ Lineal Descendants
  - ⊙ Children and Grandchildren

# WHO IS NOT A FAMILY MEMBER?

- ◎ Separate legally recognized entity
  - ◎ Limited liability company
  - ◎ Partnership
  - ◎ Corporation
  - ◎ Trust
  
- ◎ What about single member LLCs?

# IDENTIFY PROPERTY WITH POTENTIAL ENHANCED VALUE

Treas. Regs.

Section

1.170A-

14(h)(3)

- ⊙ What land located near the conservation easement land is owned by the donor?
- ⊙ What land which is contiguous to or located near the conservation easement land is owned by a related person?

# WHO IS A RELATED PERSON?

I.R.C.  
Section  
267(b)

- ⊙ As defined in I.R.C. Section 267(b)
  - ⊙ Family members
  - ⊙ Individual and corporation where individual owns more than 50% of stock
  - ⊙ Two corporations which are members of the same controlled group

# WHO IS A RELATED PERSON?

## CONT'

I.R.C.  
Section  
267(b)

- Grantor and fiduciary of same trust
- Fiduciary of two trusts with the same grantor
- Fiduciary and beneficiary of the same trust
- Fiduciary of one trust and beneficiary of another trust, if same person is grantor of both trusts
- Fiduciary of trust and a corporation where trust owns more than 50% of stock

# WHO IS A RELATED PERSON? CONT'

I.R.C.

Section

267(b)

- ⦿ A person and a Section 501 organization where organization is controlled by such person or such person's family members
- ⦿ Corporation and partnership where same persons own more than 50% of stock and more than 50% of interest in partnership
- ⦿ Two S corporations where same persons own more than 50% of stock in each corporation

# WHO IS A RELATED PERSON? CONT'

I.R.C.

Section

267(b)

- ⦿ S corporation and C corporation if the same persons own more than 50% of stock of each corporation
- ⦿ Executor of an estate and beneficiary of an estate (except in case of sale or exchange to satisfy pecuniary bequest)

# WHO IS A RELATED PERSON? CONT'

I.R.C.  
Section  
707(b)

- ⊙ Partnership and person owning more than 50% interest in such partnership
- ⊙ Two partnerships in which same persons own more than 50% interest in both partnerships

# ATTRIBUTION RULES

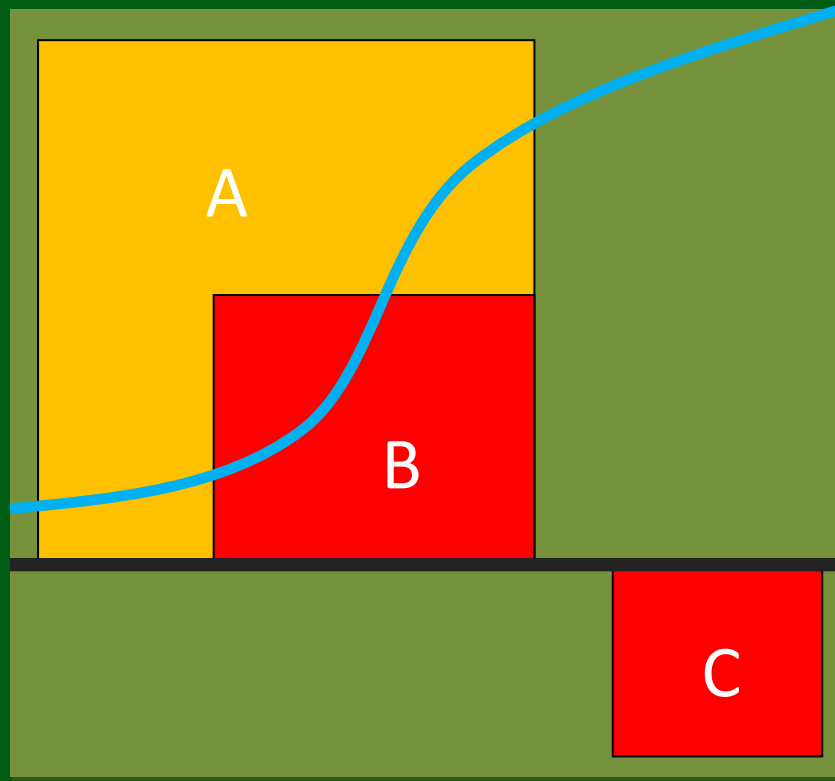
I.R.C.

Sections

267(c) and

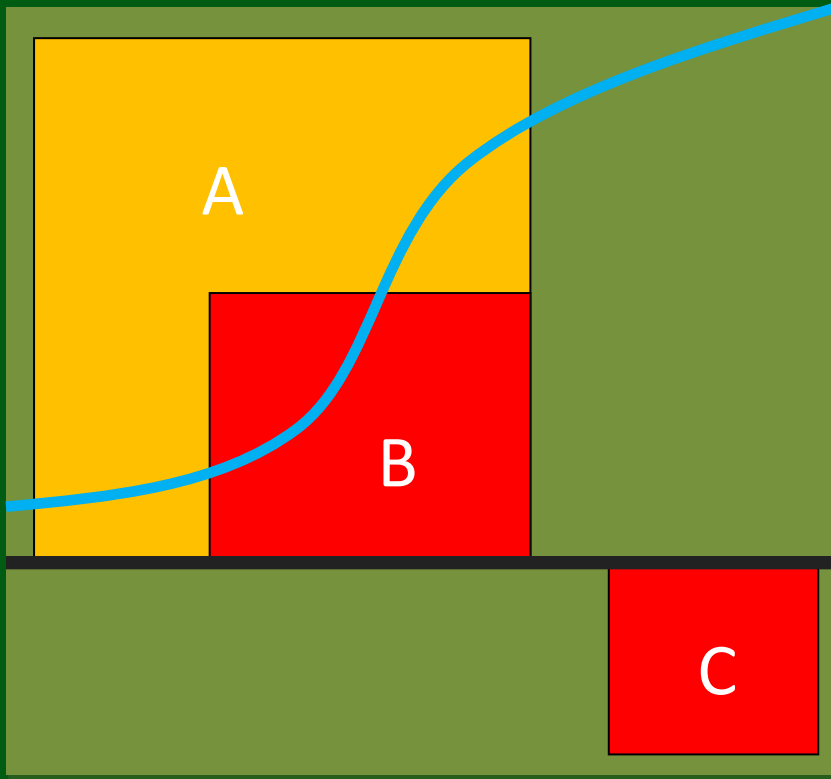
707(b)

- ⊙ For both corporations and partnerships, an individual is deemed to own the stock , or partnership interest, that is owned by the individual's family
- ⊙ Family is defined as discussed above
- ⊙ Must obtain list of all entities and persons owning conservation easement land and any other nearby land and the ownership structure within any entity



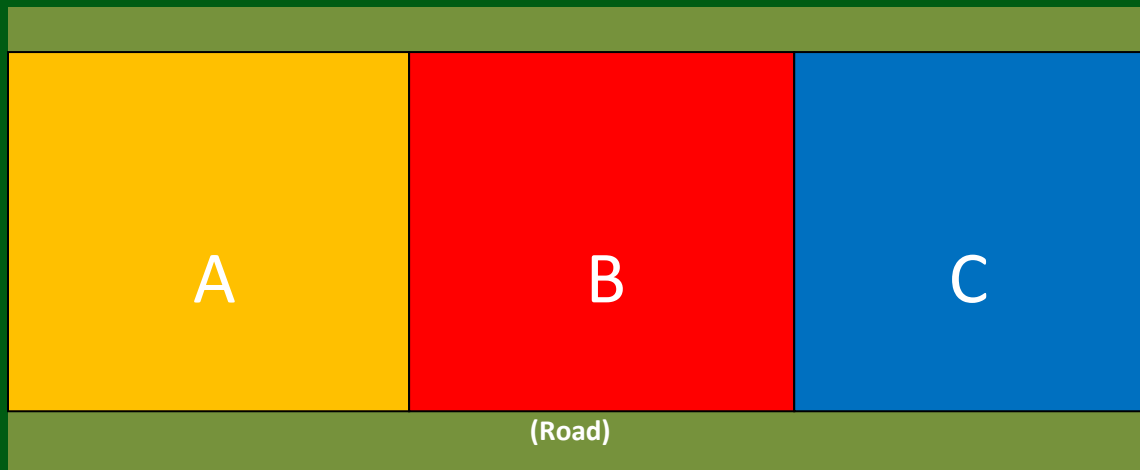
Mr. Jones owns parcel A, B and C. Parcel B and C have the same highest and best use. Mr. Jones donates a conservation easement on parcel B.

What must be appraised for Treasury Regulations?



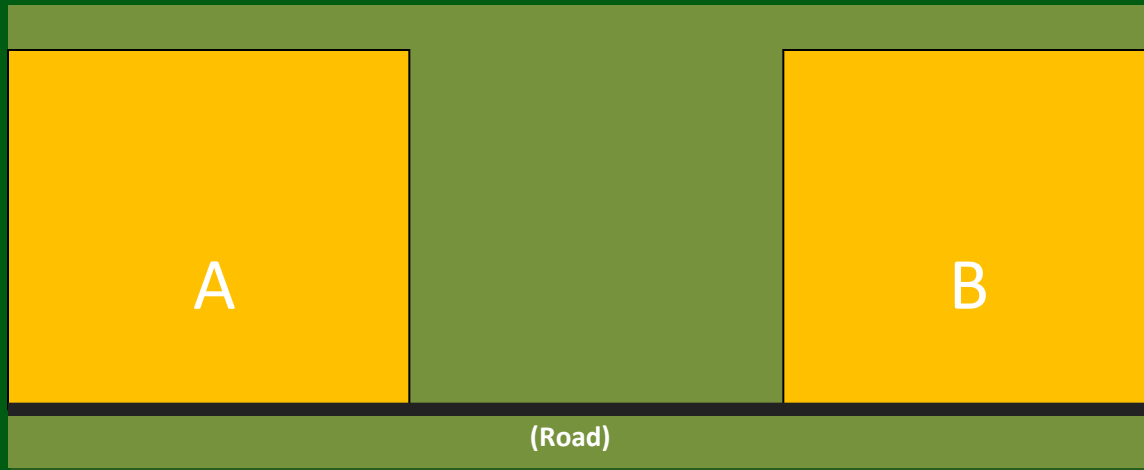
Mr. Jones owns parcel A, B and C. Parcel B and C have an integrated highest and best use. A federal agency purchases a conservation easement on parcel B.

What must be appraised for UASFLA (“Yellow Book”)?



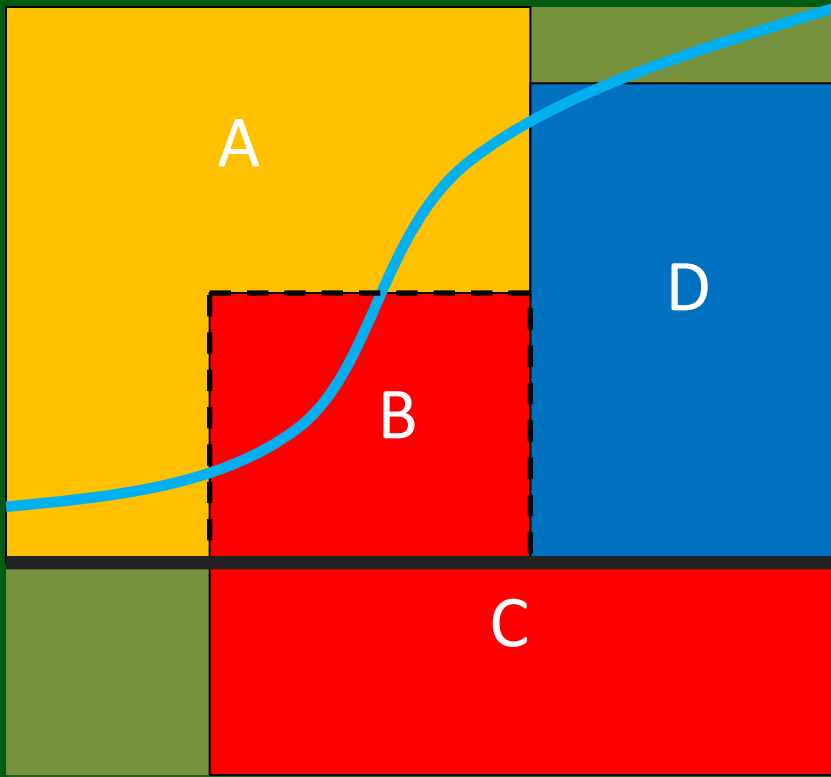
Mr. Smith owns parcel A, Parcel B is owned by John, Mr. Smith's son and Parcel C is owned by Anne, Mr. Smith's daughter. Mr. Smith donates a conservation easement on parcel A.

What must be appraised for Treasury Regulations?



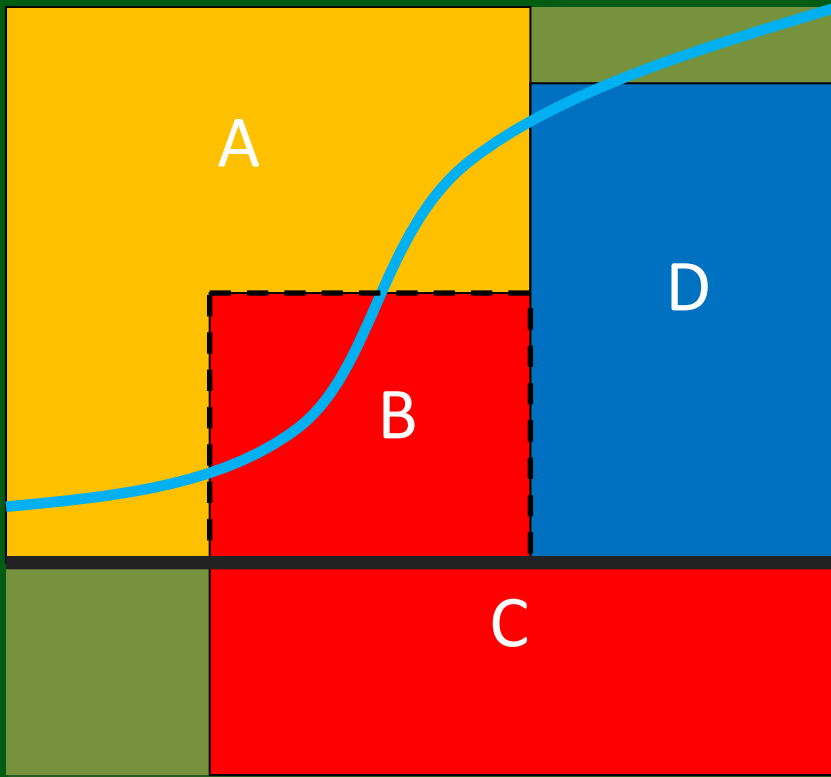
Mr. Smith owns parcel A and B. Mr. Smith donates one conservation easement that encumbers both parcel A and parcel B.

What must be appraised for Treasury Regulations?



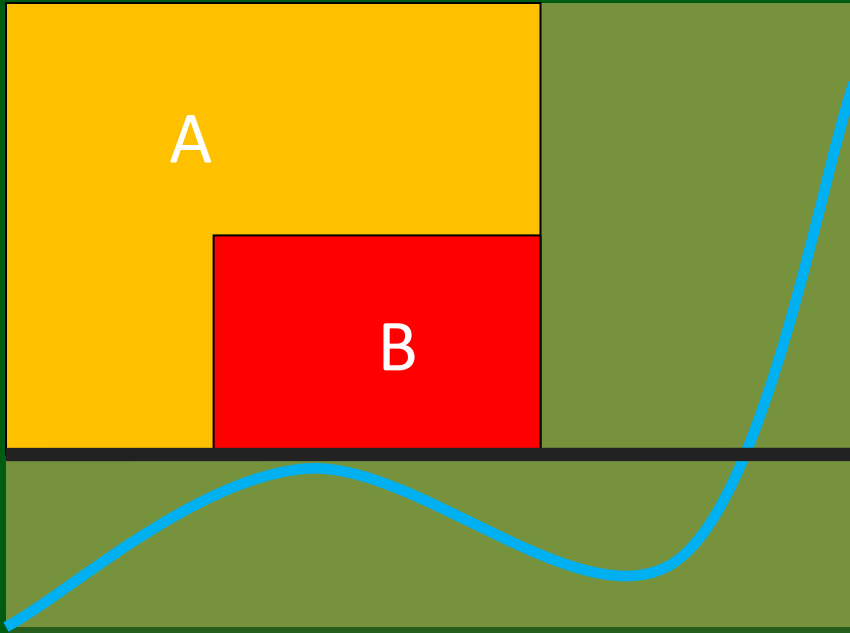
Ms. Phillips owns parcels B and C. Parcels B and C have the same highest and best use. Mr. Phillips (husband of Ms. Phillips) owns parcel A. Mr. Phillips Jr. (son of Mr. and Ms. Phillips) owns parcel D. Ms. Phillips donates a conservation easement on parcel B.

What must be appraised for Treasury Regulations?



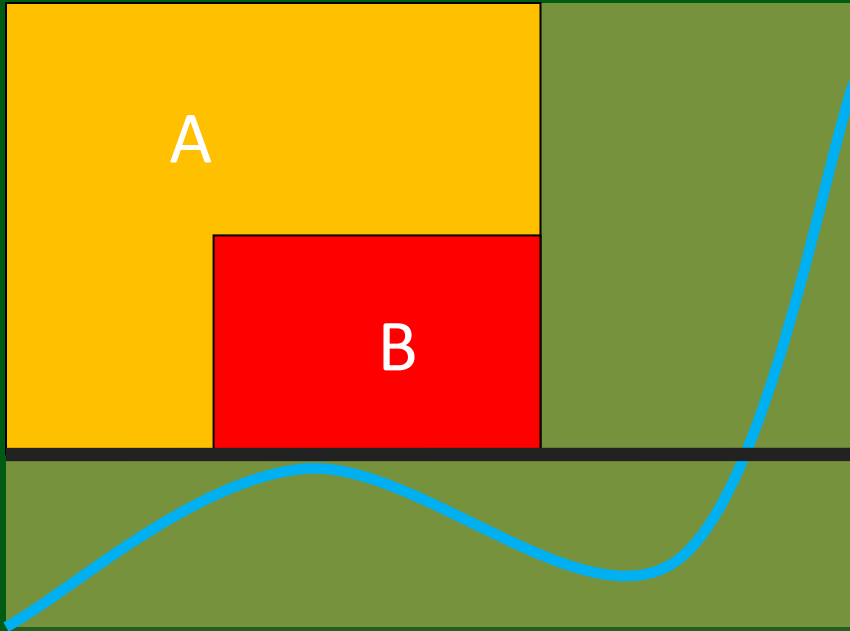
Ms. Phillips owns parcels B and C. Parcels B and C have an integrated highest and best use. Mr. Phillips (husband of Ms. Phillips) owns parcel A. Mr. Phillips Jr. (son of Mr. and Ms. Phillips) owns parcel D. A federal agency purchases a conservation easement on parcel B.

What must be appraised for UASFLA (“Yellow Book”)?



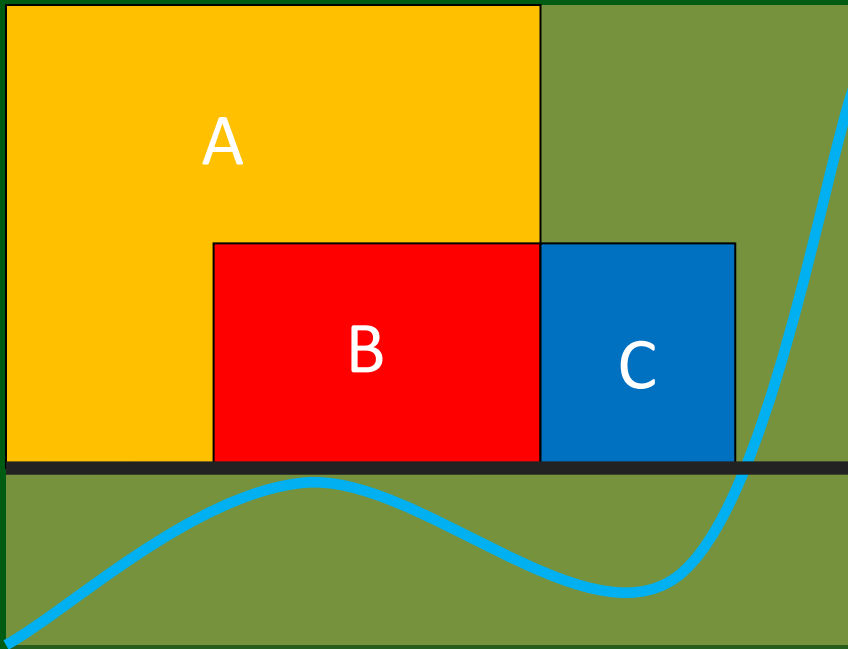
Aunt Sally donates a conservation easement on Lot A. What does the appraiser need to value (before and after, enhancement, etc.) to comply with the Treasury Regulations. Assume Lots A and B are owned as follows.

1. A – Aunt Sally  
B – Aunt Sally
2. A – Aunt Sally  
B – Sally’s daughter Connie
3. A – Aunt Sally  
B – Sally’s Family LLC #1 (Sally 60%;  
Connie 20%, Sally’s son Bob 20%)
4. A – Aunt Sally  
B – Sally’s Family LLC #2 (Sally 34%;  
Connie 33%, Sally’s son Bob 33%)
5. A – Aunt Sally  
B – Wentworth Family LLC #1 (Sally  
60%; Cousin Alice 20%, Cousin  
Bertie 20%)



Aunt Sally donates a conservation easement on Lot A. What does the appraiser need to value (before and after, enhancement, etc.) to comply with the Treasury Regulations. Assume Lots A and B are owned as follows.

6. A – Aunt Sally  
B – Wentworth Family LLC #2 (Sally 34%; Alice 33%, Bertie 33%)
  
- 7 .A – Sally’s Family LLC #1 (Sally 60%; Connie 20%, Sally’s son Bob 20%)  
B – Wentworth Family LLC #1 (Sally 60%; Cousin Alice 20%, Cousin Bertie 20%)
  
8. A – Sally’s Family LLC #1 (Sally 60%; Connie 20%, Sally’s son Bob 20%)  
B – Wentworth Family LLC #2 (Sally 34%; Alice 33%, Bertie 33%)



Aunt Sally donates a conservation easement on Lot A. What does the appraiser need to value (before and after, enhancement, etc.) to comply with the Treasury Regulations. Assume Lots A, B and C are owned as follows.

1. A – Aunt Sally  
B – Connie (Sally’s daughter)  
C – Bob (Sally’s son)
2. A – Aunt Sally  
B – Connie  
C – Bob’s son Willie
3. A – Aunt Sally  
B – Bob  
C – Sally’s Family LLC #1 (Sally 60%; Connie 20%, Sally’s son Bob 20%)
4. A – Aunt Sally  
B – Bob  
C – Wentworth Family LLC #1 (Sally 60%; Cousin Alice 20%, Cousin Bertie 20%)
5. A – Aunt Sally  
B – Bob  
C – Wentworth Family LLC #2 (Sally 34%; Alice 33%, Bertie 33%)

QUESTIONS?