

# Reflections on Real Estate

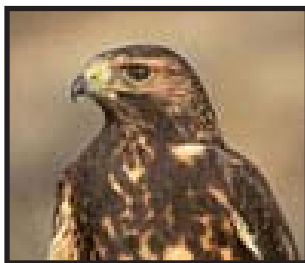
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## Conservation Easements: Protect Yourself

By Jim Gwerder

Conservation easement sales involving rural properties are becoming more prevalent. In the sale of a conservation easement, the seller is basically selling their development rights but keeping fee title to the property. The conservation easement seller/landowner then is required to abide by the terms and restrictions of the conservation easement, which is recorded against the property. The landowner is remunerated for these restrictions only once—when the conservation easement transaction initially occurs. It is important to keep in mind that once the development



Swainson's Hawk

rights (conservation easement) are sold, they are gone forever and thus will heavily impact the value of the property.

As mentioned previously, a conservation easement carries with it restrictions and terms. Most often, a method for funding the maintenance of the habitat or species in perpetuity (that is FOREVER!) must be devised, funded and implemented. This is usually accomplished by analyzing the various factors necessary for that perpetual maintenance and then assuming an increasing cost for each item each year into the future. This

kind of analysis can be a real eye opener when projecting costs so far into the future—a 25¢ pencil will eventually cost hundreds of dollars at some point!

Value is a concept that can easily be misconstrued when dealing with conservation easements. First, there are “intrinsic” values associated with habitat, habitat creation potential, species, and sometimes open space. These items are related to how suitable a property is for certain species or habitats, or how scenic it is to the general public.

One must also consider the overall monetary value of the land with all of its associated rights. Speaking in general

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## Tony Souza Assesses Land Use Issues in China

Excerpts from an article by Karen Williams, CRE

From bureaucratic entanglements to investment complexities, land use challenges abound in China. The China-U.S. Center for Sustainable Development explores solutions for these challenges by providing training and exchange programs, in both China and the U.S., which are partially underwritten by the James E. Gibbons Educational Trust Fund of The Counselors of Real Estate.

This summer, at the invitation of the Center, as guests of the Chinese government, Souza Realty & Development President Anthony Souza, CRE had the opportunity to travel to China to assess first hand the most pressing land use

issues facing that country so future programs developed by the Center can be better tailored to meet the needs of the Chinese trainees.

A nonprofit organization based in Portland, Ore., the China-U.S. Center for Sustainable Development works to accelerate sustainable development through cooperative initiatives among the business community, governments, universities, research institutions and non-governmental organizations. Its programs cover sustainable practices in several areas, including urban planning and design, land use, financial management and infrastructure development, and energy. To date, more than 300

Chinese government officials have participated in U.S.-based training, which is held at the Center's Portland site, as well as in several other American cities.

### LAND USE IN CHINA

Amazed by the breakneck speed and sheer dimension of growth going on in China, Souza said it best: This is a country that must feed its people, and to do so, the government must become vulnerable to the global marketplace.

China first authorized comprehensive land use planning in 1987, through

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### *Easements continued*

terms, values for agricultural land in California are based on what is happening in the marketplace, evidenced by comparable sales. From a landowner's (conservation easement seller's) perspective, this is of the utmost importance in determining whether or not to participate in a conservation easement sale. Remember that selling and placing a conservation easement over property basically removes the development rights from the land. This, in effect, removes all speculative value from the land (the major component of the value of much agricultural land in California) and leaves only the value attributable to the land that can be gained from whatever activities are still allowable.

Before a conservation easement is transacted and placed against a property, many things have to occur. Site visits have to be coordinated with a myriad of individuals, sometimes more and sometimes less depending on who the buyer is. A fair price for the easement has to be negotiated resulting in a contract that is legal and

binding, and protects the landowner. A funding mechanism for maintenance of the easement must be developed and agreed upon by the involved parties. The "normal" issues that arise in a straight fee simple land sale also need to be dealt with in a conservation easement sale. (The only normal issues in land sales are that unexpected items will invariably arise and need to be dealt with before close of escrow can occur.) In general, this can include title, access, and prescriptive rights.

The sale of a conservation easement is something that should be considered very carefully. Any landowner taking such action should be represented in the transaction by a broker that can look out for the landowner's interests in the best possible way. At Souza Realty & Development, we have experience in all the aspects of transacting conservation easements mentioned in this article, plus many more that aren't listed here. If you are thinking about selling or are looking to buy a conservation easement, give us a call.

### *China continued*

a federal land use agency that was established in 1986. Currently in the midst of a third round of policy review and revision, the goal of the government is to develop policy that will be in effect until 2020.

Number one on the government's agenda is the implementation of a "no net loss" policy for cultivated land to assure food security and to increase land efficiency, which is measured predominantly by food production.

China uses about one-eighth the

amount of land that the U.S. uses, per person, to produce food. With such limited land dedicated to this purpose, the "no net loss" policy is vital. Urbanization and the demand for industrial lands provide pressure, and the country has lost farmland to natural disasters, particularly floods (hence, dam projects).

To deal with its anticipated population growth, China needs to go from its current 1.8 billion mu in food production (about 300 million U.S. acres) to 2.15 billion mu

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### *Interest Rates continued*

of credit from a consortium of banks recently.

As people complained that perhaps the Fed went too far in increasing the rates to keep a moderating rate of inflation, the Fed also believed that "tightening of credit conditions has the potential to intensify the housing correction and to restrain eco-

nomie growth more generally". Thus by lowering the fed funds rate, the Fed is hoping to avoid further adverse effects from the financial disruption we have seen during the late summer months.

If I can be of any assistance with your real estate financing needs, please do not hesitate to call me at (650) 579-3995. My email address is [rdavidson@redcofinance.com](mailto:rdavidson@redcofinance.com).



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Home sales decreased 27.8 percent in August in California compared with the same period a year ago, while the statewide median price of an existing home increased 2 percent. Angst over jobs and an economy struggling to ride out the recent subprime market woes have driven consumer confidence to its lowest level in two years, according to the latest Conference Board Consumer Confidence Index, which now stands at 99.8, down from 105.6 in August.

*California Association of Realtors®*

## China continued

in order to have the same quantity per capita in 2030, when China's population will reach 1.5 billion people.

An additional challenge to success is Chinese bureaucracy. To formulate land use policy, the input of 25 federal-level agencies, as well as provincial, regional, county and local governments, must be coordinated. Of course; all agencies have competing policies, from industrialization and revenue goals to preservation and reclamation of farmland.

### RELOCATION OF FARMERS

One of China's largest undertakings is to relocate 250 million people—nearly the entire population of the United States—from small collective farms into the cities, so that land can be consolidated for high-production, industrial farming methods. Otherwise, the government foresees a major food crisis in the next decade.

This relocation process requires a complex balance of timing, the creation of housing and other infrastructure, training and job creation. Humanitarian or cultural issues are secondary. This is a risk of immense proportion, but relocation appears to be the only solution the government deems feasible.

### SUSTAINABILITY

The stories about pollution in China

do not prepare visitors for the reality. Stars are obscured in the night sky. At 4-star hotels, there are placards telling visitors not to drink the tap water. The water, sewer and storm water systems are badly outdated and inadequate. In the major cities, more than half of the housing stock is severely dilapidated. These infrastructure needs are being addressed by new construction, but not quickly enough to provide for the urban migration of more than 10 million people per year.

In addition, China's appetite for power of all kinds is growing at an alarming rate. Although the government evaluates, monitors and controls existing coal-fired electricity plants for efficiency and emissions, the country is building approximately one new coal-fired plant per week, and will continue to mine the approximately 200 billion metric tons of coal located in the Inner Mongolia region. Chinese officials were clear that they do not have the expertise to perform strategic environmental assessments of proposed projects.

### DOING BUSINESS IN CHINA

Doing business in China is about relationships first and money second. A Westerner who does not have a relationship with a local government official would find setting up shop very difficult indeed.

Foreign companies may not take

profit or interest earnings except to a very limited extent. To bypass this issue and to obtain the right to occupy land in China, an outside developer must form a Chinese company and apply for a long-term lease from the Chinese government, which owns almost all of the land allocated for non-agricultural purposes. Commercial leases span 40 years; industrial leases, 50 years; and multifamily residential leases, 70 years. Costs vary in different parts of the country. One example is that the price of industrial land in Inner Mongolia is approximately \$3 per U.S. acre, with infrastructure provided.

Difficulties aside, China is anxious to find Westerners who want to do development and make investments there.

### FINAL LESSON

Through its work, the China-U.S. Center for Sustainable Development is creating a bridge for sharing knowledge and experience. The Counselors' participation in this effort is appreciated and valued by the Chinese government. It was heard many times that the Chinese officials who visited the U.S. learned very much from their training experience and that they were in the process of implementing what they had learned, which was resulting in significant improvements over their past practices.

## Available Property

±28 ACRES W/IMPROVEMENTS \$1,000,000  
±137 ACRES W/IMPROVEMENTS \$2,000,000  
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RETURN SERVICE REQUESTED

# Interest Rates

By Rich Davidson

**O**n September 18<sup>th</sup>, the Federal Reserve lowered the discount rate, the rate the Fed charges banks for direct loans to banks; as well as the federal funds rate, the rate banks charge each other for overnight loans, by 50 basis points. The reduction in the fed funds rate to 4.75% was the first reduction in this rate since 2003. This was good news for the stock market, as the Dow Jones Industrial Average increased by 336 points, the biggest one day point jump in nearly 5 years. This represents a 2.5% increase for the day.

In mid 2003, the Fed had just

finished an 18 month period of lowering the rate from 6.5% to 1% in order to avoid a recession after the dot-com stock market decline and the terrorist attacks of 9/11. This lowering of the federal funds rate helped the housing

eased during this time, and the “sub-prime” market boomed.

The Fed started raising rates in 2004 and raised them 17 times up until June 29, 2006. It is these rate increases that began triggering the increase in the adjustable rate loans that many of the “sub-prime” borrowers, as well as other borrowers, are incurring. This has caused a domino effect, with increased delinquencies and foreclosures in the residential market. This in turn led to a confidence crisis amongst buyers of the securities created by these residential loans, further exacerbating the problem. Indeed, Countrywide Funding, one of the nation’s largest residential lenders, was forced to draw down an \$11.5 billion line

KEY INTEREST RATES & INDICES			
<i>September 18, 2007</i>			
INDEX	CURRENT RATE	CHANGE FROM 6/13/07	NOTES
Bank Prime	7.75%	-0.50%	
1 Yr. Treasury	4.08%	-0.90%	
5 Yr. Treasury	4.19%	-0.94%	
10 Yr. Treasury	4.50%	-0.70%	
30 Yr. Treasury	4.77%	-0.51%	
LIBOR (1 Mo.)	5.50%	+0.18%	
LIBOR (6 Mo.)	5.42%	+0.02%	
LIBOR (1 Yr.)	5.11%	-0.37%	
Freddie Mac 60 day	6.27%	-0.32%	30 year fixed rate
12 Month Treasury Average	4.933%	-0.089%	T average
11 <sup>th</sup> District Cost of Funds	4.277%	+0.053%	Fund Cost
Consumer Price Index	207.9 (Aug.)		Up 2% from year ago
Federal Funds Rate	4.75%	-0.50%	
Dow Jones Industrial Avg.	13,739		+10.2% YTD
Consumer Confidence Index	105.0 (Aug.)		-3.0 from May

boom by making it easier to qualify for loans. Coincidentally, lender standards

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