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## Proposed sale of River Farm, listed for \$32.9 million, draws legal scrutiny

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A nonprofit's push to sell and perhaps redevelop the historic River Farm property, once owned by George Washington, is attracting some legal scrutiny.



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The American Horticultural Society is currently marketing for sale the site five miles from Mount Vernon, which doubles as its headquarters, for an eye-popping \$32.9 million price tag. But Virginia Attorney General Mark Herring has begun investigating the matter, requesting documents from the nonprofit to better understand the proposed transaction.

D.C. Attorney General Karl Racine looks to be doing the same. Lawmakers and advocates closely following the River Farm sale say they've heard from Racine's office that he's pursuing an inquiry, though a spokeswoman for the attorney general said, "it is our general practice not to confirm, deny, or comment on confidential enforcement activity."

A spokeswoman for the AHS did not respond to a request for comment.

### Investigation relates to charitable intent

The sale has attracted pushback from neighbors and local officials, who are concerned that a valuable bit of public green space with a

long and storied history could soon be redeveloped into single-family homes. But these new investigations stem from how the AHS acquired the 27-acre farm in the first place.

The nonprofit only managed to buy the property in 1973 thanks to a \$1 million gift from local philanthropist Enid Annenberg Haupt, who sat on the AHS board. She feared that the property was about to be sold to the Soviet Union as a retreat for its diplomats, and engineered the sale to the AHS instead so it could remain a public asset.

The attorneys general look to be investigating whether a private sale amounts to a subversion of Haupt's intent with that gift. State Sen. [Scott Surovell](#), who represents the Mount Vernon area and also works as a lawyer, said he and other local lawmakers requested such an investigation because "federal and state law gives attorneys general the authority to investigate and seek to enforce donor intent on restricted contributions."

"We take very seriously our responsibility to ensure that charitable assets are used in a manner consistent with the charitable purposes expressed by the donor — in this case, any purposes or restrictions expressed by Mrs. Haupt in conjunction with the gift to purchase River Farm," Donald Anderson, Herring's deputy attorney general, wrote in a [Nov. 24](#) letter to Terry Hayes, the chair of the AHS board of directors. Anderson also requested "any and all documents related to this gift and the purchase of River Farm."

### **Does nonprofit's charter preclude sale?**

For its part, the AHS has previously insisted it needs to pull off this sale in order to fund its operations going forward, especially given the financial stresses imposed by the Covid-19 pandemic. But opponents of the sale are skeptical of those claims, and believe the law will force the group to pursue other avenues if it truly is in dire financial straits.

"Ms. Haupt stated the intent behind her donation repeatedly in public and the sale of the property to a private owner would violate that," Surovell said in an email to the Washington Business Journal.

Surovell also suspects that "the sale of the property for private development would violate AHS' charitable mission," which could be the aim of any investigation Racine may be conducting. The organization may be headquartered in Virginia, but it was founded

in D.C., perhaps providing Racine with an opening. D.C. law does allow the attorney general to pursue the dissolution of a nonprofit if it “has continued to act contrary to its nonprofit purposes.”

Neighbors and conservation activists hope that, if nothing else, the investigations can convince the AHS to sell the property to a public entity, or even another nonprofit. The [Northern Virginia Regional Park Authority](#) has pitched the idea of buying the site to preserve as open space, while Fairfax County officials have explored the idea as well. The nonprofit [Northern Virginia Conservation Trust](#) is also [soliciting donations](#) to attempt to buy the property.

### **Opponents fear the loss of public space**

However, sale opponents fear that the high asking price shows that the AHS is merely interested in maximizing its profits instead of selling the farm to an entity that would keep it open to the public.

“Due to its historical significance and importance as a public community heritage site in Virginia, I was disappointed to hear that the AHS board may sell the River Farm property for a profit and eliminate the public’s access,” Virginia Gov. Ralph Northam wrote in a Nov. 20 letter to the AHS. “We hold our historic and public spaces in high esteem and need to think twice before selling them to the highest bidder.”

The nonprofit retained real estate brokerage Compass to market the property. And [John McGranahan](#), a prominent Northern Virginia land-use attorney at Hunton Andrews Kurth LLP, has begun representing the nonprofit in discussions over the sale, according to [Katherine Ward](#), president of the nearby Wellington Civic Association. Both of those developments have further fueled fears that the property will ultimately be sold as a site for a new single-family neighborhood.

McGranahan did not respond to a request for comment.

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