

CONSERVATION EASEMENTS



What is a Conservation Easement?

A **conservation easement** is a permanent transfer of usage rights on a property that creates a legally enforceable agreement between a landowner and a nonprofit land trust or government agency limiting the use of the property and protecting its conservation values. The goal of a conservation easement is to protect agricultural land, wildlife habitats, and environmentally sensitive land and water by separating the right to build or develop a property from other rights of ownership.

Conservation easements are voluntary agreements that restrict real estate development, commercial and industrial uses, and other activities of mutual agreement on a property. The nature of conservation agreements varies widely depending on characteristics and use of the property being considered. The landowner may either sell or donate a conservation easement.

How Does a Conservation Easement Work?

Part or all of a property may be included in a conservation easement. The owner continues to own the land and retains the right to use it, sell it, and pass it on to heirs. The recipient acquires the conservation rights and is able to protect environmental resources in perpetuity for future generations. If the property is sold, the conservation easement remains with the property. A conservation easement may or may not affect the property taxes.

What are the Benefits of Conservation Easements?

To the *general public*:

- There is a guarantee to protect agricultural lands, wildlife habitats, water quality, and other environmental resources for future generations.
- The land stays on the tax rolls and can continue to be economically productive.

To the *recipient*:

- More resources can be protected with less money by buying the rights rather than the land.
- Land that might otherwise be unavailable can be committed to conservation.

To the *landowner*:

- Ownership of the land is retained and can be passed on to heirs.
- The landowner can still use the land for economic and personal benefit.
- The property is protected for future generations.
- There may be tax advantages.

What are Some of the Tax Advantages of Conservation Easements?

To take advantage of federal income tax deductions, a conservation easement must be perpetual and given to a qualified conservation organization or government agency. Some of the tax advantages include:

- Donation of a conservation easement may allow a donor to deduct up to 50% of his adjusted gross income. Qualifying farmers and ranchers may be able to deduct up to 100% of their adjusted gross income. In either case, the donor may take deductions for their contribution over as many as 16 years.
- Selling a conservation easement may allow the landowner who owes capital gains taxes on the sale to participate in a tax deferred exchange by purchasing another piece of property instead of paying the tax.
- When an owner sells a conservation easement, IRS may permit him to reduce his basis by the amount of the conservation easement and reduce the amount of capital gains taxes owed.
- A conservation easement may lower the value of property and lower estate taxes upon the landowner's death.

How is the Value of the Conservation Easement Determined?

An easement is usually valued with an appraisal by a qualified appraiser. The value of the easement is the difference between the fair market value of the land and the value of the land with the restrictions imposed by the easement.

How is the Eligibility of a Property for a Conservation Easement Determined?

The determination of a property's conservation value depends on its location and the unique characteristics that it has. Some of the factors that are considered include:

- Existence of endangered or threatened wildlife, birds, and plants
- Existence of water resources that are unique or critical to sustaining water quality
- Existence of wetlands that have previously been mitigated
- Adjacency to other protected land
- Amount of property available for conservation

Where Can I Find Out More about Conservation Easements?

- The Land Trust Alliance -- <http://www.lta.org/consERVE/options.htm>
- The Trust for Public Land -- <http://www.tpl.org/>
- The Nature Conservancy -- <http://www.nature.org/>
- The IRS -- <http://www.irs.gov/charities/article/0,,id=137244,00.html>