

Preserving Your Land For the Long Haul

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What is a Conservation Easement?

- A conservation easement is a permanent, voluntary, legally binding agreement that limits certain types of uses or prevents development from taking place on a piece of property now and in the future.
- Easements allow you to continue to own, use, sell or pass your land on to heirs.

What does a working lands conservation agreement do?

- Think F-L-E-X-I-B-L-E
- Limits subdivision and incompatible uses
- Incorporates use of a Forest Management Plan or Nutrient Management Plan, perhaps with some goals also specified

For example...

“Timber harvest, forest management or tree cutting shall be conducted in accordance with a Forest Management Plan that describes existing timber resources, supplies an inventory of stands to be cut and shows logging roads and landings. Such Plan shall incorporate the following goals:

- (1) to support, maintain, and enhance wildlife habitat;
- (2) to promote the long-term sustainability of contiguous forest; and
- (3) to maintain and enhance riparian forest in order to protect water quality and prevent water pollution.”

A conservation agreement is NOT...

- Temporary...provides permanent protection and runs with the land
- Like a right-of-way easement or provide public access
- A conspiracy by the United Nations to take over our land...*just in case you were wondering!*

Why Conservation Agreements for Working Lands?

- Keep land working for the long term
- Foster use of good management practices in the future
- Fringe benefits such as protecting wildlife habitat and water quality

So what else is in this thing?

- No subdivision and limits on homesites
- No industrial or commercial use
- Allows the holder of the agreement to monitor the property, usually annually
- Some legal-ese to help satisfy standards set by the IRS

What does the IRS have to do with it?

- The tax code provides a charitable deduction for the donation of a conservation easement so they have some basic requirements.
- The donation must satisfy a public benefit (scenic, ecosystem, or open space benefits, for example).

Other things the IRS requires...

- Conservation purpose
- "Qualified conservation organization
- Enforceable in perpetuity
- Holder must have access to monitor and enforce
 - Uses that are inconsistent with the conservation purposes must be prohibited
 - Need consent of mortgage company
 - Must create baseline documentation

How do I use these tax benefits?

- Fair market value before agreement less fair market value after agreement = value of charitable deduction
- Must obtain an appraisal to show the easement value

New and Improved Federal Tax Benefits for 2007

- Raises the maximum deduction a donor can take from 30% of AGI in any year to 50%
- Allows qualified farmers and ranchers to deduct up to 100% of their AGI
- Donors can carry deductions forward after the initial year for 15 years (16 total)

Estate Tax Benefits

“The Farm and Ranch Protection Act” allows that up to 40% of the value of land under conservation easement may be exempt from estate taxes, depending on appraised value and subject to a \$500,000 cap per individual

Specifics for Maryland

- Maryland state law provides a tax credit of up to \$5,000 per year (\$10,000 for husband and wife) against State income taxes.
 - Easement must be donated to Maryland Environmental Trust or MALPF.

Specifics for Maryland cont.

- Landowner pays no property tax for 15 years from date of donation.
- After 15 yrs. Unimproved land assessed at highest Ag rate (\$500/ac) even if not actively farmed.
- If property is in Ag use it's assessed at the appropriate Ag level.
- Does not apply to residential improvements or to a min. of 1 ac. surrounding these improvements.

Big Picture Benefits

For Landowners

- Tax savings
- Keep land in the family
- Peace of mind
- Influence the future of the property to retain your hard work and stewardship

For the community

- Sustainable natural resource base
- Economic stability
- Quality of life
- Clean air and water

Qualified Easement Holders

- Maryland Envirometal Trust
- Maryland Agricultural Land Preservation Foundation
- Potomac Conservancy
- Catoctin Land Trust
- Carrolton Manor Land Trust
- Frederick County

Purchase of Development Rights Programs

- Typically – Local, State and Federal programs
- Landowner receives cash payment for all or a portion of the value of the easement
- Different programs have different goals or requirements
- Usually competitive

Forest Legacy Program (FLP)

- Federal program supports State efforts to protect environmentally sensitive forest lands. It encourages and supports acquisition of conservation easements that restrict development, require sustainable forestry practices, and protect other values on privately owned forest lands.
- May fund up to 75% of project costs

Farm and Ranchland Protection Program (FRPP)

- provides matching funds to help purchase development rights to keep productive farm and ranchland in agricultural uses.
- USDA provides up to 50 percent of the fair market easement value of the conservation easement.

Thank You

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