



## **Conservation Easements -Frequently Asked Questions**

A conservation easement is a restriction placed on a piece of property to protect its resources. The easement is either voluntarily sold or donated by the landowner, and constitutes a legally binding agreement that prohibits certain types of development (residential or commercial) from taking place on the land.

- ◆ Property rights remain in private ownership.
- ◆ Easements are tailored to the circumstances.
- ◆ Easements can yield tax benefits.
- ◆ Easements provide permanent protection.

### **What is an easement?**

Ownership of a piece of property may best be described as a "bundle of rights." These rights include the right to occupy, use, lease, sell, and develop the land. An easement involves the exchange of one or more of these rights from the landowner to someone who does not own the land. The owner of the property is the only one who can decide to place a conservation easement on his or her property.

### **What is a conservation easement?**

A conservation easement is designed to exclude certain activities on private land, such as commercial development or residential subdivisions. Its primary purpose is to conserve natural resources. An easement does not grant ownership nor does it absolve the property owner from traditional owner responsibilities, i.e. property tax, upkeep, maintenance, or improvements.

### **What are the tax implications of conservation easements?**

If an easement is granted in perpetuity as a charitable gift, some federal income and estate tax advantages usually accrue. These tax savings may be substantial, and are often cited as a major factor in landowners' decisions to donate easements.

### **Who holds the easement?**

A conservation easement is designed to protect a property according to the owner's wishes. Since the easement is generally granted in perpetuity, it is necessary for an outside party to be responsible for the monitoring and maintenance of the easement. The outside party "holds" the easement and is required to monitor and enforce the adherence of current and future property owners to the terms of the easement.

### **Is land under a conservation easement considered public property?**

The easement can restrict or permit certain public uses of the land. The decision to allow public access is left to the individual property owner who places the easement on the property. An easement does not have to permit public access at all. It is important to emphasize that land covered by a conservation easement is still privately held land, with the only restrictions on land use being those desired by the owner who places the easement on the property.

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