

Introduction to Conservation Easements

Commonly Asked Questions

What is a Conservation Easement?

A conservation easement is a tool for landowners to protect natural resources and preserve scenic open space. It is a voluntary agreement that allows a landowner to limit the type or amount of development on their property while retaining private ownership of the land. The easement is signed by the landowner (easement donor), and a Land Trust or Conservancy agency (party holding the easement). The Land Trust (a 501c3 nonprofit) enforces the terms of the easement in perpetuity, typically by monitoring through annual visits, and typically a one-time financial contribution is required to cover this. The Land Trust exercises no direct control over other activities on the land. Easements are recorded with the County Register of Deeds and apply to all future owners of the land. The landowner retains full rights to control and manage their property within the limits of the easement and bears all costs and liabilities related to ownership and maintenance of the property.

Why do people grant conservation easements on their land?

Because they want to protect their property (e.g., beloved farm and/or family/community heritage) from unwanted future development and also wish to retain ownership of their land. The conservation easement assures the property will be protected forever, regardless of who owns the land in the future. An additional benefit of granting a conservation easement is that donation of an easement may provide significant financial benefit to the donor (tax benefits for private owners) or access to government grants. Many religious congregations have granted easements on their lands to witness good stewardship and to live out caring for the integrity of God's creation – preserving a place of beauty and diversity they have loved for future generations.

What kinds of land can be protected by a conservation easement and what activities are allowed?

Any land whose conservation is in the public interest and has "significant" conservation values: e.g., woodland, wetlands, farmland, scenic areas, historic areas, wild and scenic rivers, undisturbed natural areas, endangered species habitat, beaches and more. Land Trusts (typically regional) each have their own criteria for accepting easements. Activities allowed depend on the landowner's wishes and the property characteristics. Land owners can continue living on the land and some development (future buildings) can be specified. Every easement is unique, tailored to a particular landowner's goals and their land. The public does not automatically have access to property protected by an easement unless the original landowner allows it. (NOTE: Some land acquisition and natural area development funds are only granted to property that IS accessible to the public.)

Can the landowner still sell or give the property away? Does the easement have to cover all of the property?

The landowner continues to own the property after executing an easement. The owner can sell, give or lease the property, as before. However, all future owners assume conditions of the easement. Easements typically allow for changes and additions to houses, construction of maintenance buildings, and other normal land management practices. Not all of an owned property need be under easement. Easements can cover only the portion of the property that the landowner restricts for conservation purposes.

What financial advantages result from donating a conservation easement and how much is it worth?

Many landowners receive a federal income tax deduction for the gift of a Conservation Easement, and may have estate and property tax relief as allowed by IRS. The value of an easement gift varies with each easement. The more the easement restricts the uses of the property, the higher the value of the gift. To determine the easement value, the land must be appraised at both its fair market (real estate) value **without the easement** restrictions, and its fair market value **with the easement restrictions**. The difference between these two appraisals is the **easement value**. In Ohio, The Clean Ohio Fund grants can provide up to 75% of the costs of acquisition of the easement value and related restoration costs to compensate the landowner for the gift being made. The landowner is paid a lump sum upfront for putting land into easement, as an acknowledgement that they have given over some of the 'development rights.'

What are disadvantages of donating an easement?

Because an easement restricts development of a property, the market value of the land may be reduced. Additionally it restricts the landowner's development choices.

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