Funding Conservation Easement Stewardship

WeConservePA

Your Role as the Land's Owner and Conservation Champion

In accepting a conservation easement from you, the land trust takes on the responsibility of ensuring that the land is conserved as you have agreed for all time. Fulfilling this duty requires financial resources most likely to come from you or subsequent owners of the land.

Conservation Easements Create Obligations

When you grant a conservation easement to a land trust, that is only the beginning of the conservation undertaking. In accepting the conservation easement, the land trust takes responsibility for upholding the easement's conservation objectives in perpetuity. **Going forward, the land trust will work ceaselessly to ensure that the conservation objectives of the easement and the associated restrictions on land development and use are respected. This work never ends.**

While the land trust welcomes this obligation—after all, it is what land trusts do—the people staffing and volunteering for land trusts recognize that the **acceptance of an easement comes with ongoing expenses** of monitoring the condition of the land, landowner outreach and education, reviews of activities that are subject to review, and enforcement—costs that never end.

The Reality of Bad Players

Although the landowners who grant conservation easements are almost always strong conservation advocates, subsequent owners of the land may see the conservation easement as something to be ignored or overcome. They may challenge conservation restrictions, thinking they can cajole, evade, or overpower the land trust, or otherwise circumvent the easement. Some bad players might even purchase conserved land on a speculative basis, intending to break the restrictions from the very start. Land trusts must be prepared for all such possibilities.

Preparing Financially for the Long Run

A land trust must ensure that it always has available the financial resources necessary to uphold its easements. The land trust, based on its experiences and those of other land trusts, will calculate the amount of money it will need to reasonably assure that it can meet its stewardship obligations in perpetuity for a particular easement as well as its entire portfolio of conservation projects. The land trust will then work to secure this amount of money from whatever sources it can to establish assurance that it has the means to meet its easement stewardship responsibilities.

Land trusts wish it were otherwise but raising stewardship money is quite challenging. Through decades of experience, land trusts have learned that the value of the land being conserved and the owners granting the easement are almost always a crucial source of funding. This is why land trusts ask the landowners who intend to grant a conservation easement to make a financial commitment to support long-term stewardship.

Options for Financing Stewardship

A land trust will work with a landowner to identify a stewardship funding arrangement that respects both the owners' financial position and the need to ensure that the land trust can responsibly meet its stewardship obligation. Options that are often suggested by land trusts, and which may be used in combination, include:

Contribution at easement closing

Some owners have both the means and the desire to fully fund the land trust's stewardship needs with a single up-front contribution.

Payments due at each transfer of the property

You may arrange that a payment comes due with each transfer of the property into new ownership, typically a percentage (e.g., 2%, 1%., 0.5%) of the purchase price.

Aside from a single, upfront contribution, this option may be the most commonly used method to fund easement stewardship, probably because **it spreads the cost burden of easement stewardship over multiple owners of land over time**. Also, the cost burden may not feel all that significant when considered against all the substantial expenses that arise with real estate transfers.

(When using this stewardship funding arrangement, exceptions to payment requirements are often made for transfers between family members.)

Single deferred payment or installment payments

You may arrange to defer all or a portion of the needed stewardship contribution until such time or times that you are best prepared to make the payments.

Payment obligations spread out to future owners

You may arrange for one or more deferred payments to be made by the people who come after you in owning the land.

Regular payments

You may arrange for ongoing payments at regular time intervals. For example, you could make payments annually, but then, when you convey your land to someone else, that person takes over the payments. If more convenient, the arrangement can allow you to defer making the payments until you sell your property.

Addressing Costs That May Not Materialize

The subdivision of a portion of the conserved property, the building of a house, or some other major change to the land (if allowed by the conservation easement) can dramatically increase the land trust's long-term stewardship liability. Moving from one to two sets of landowners, for example, roughly doubles the likelihood of future violations of the easement's terms. Rather than require you to cover these potential added stewardship costs up front, the land trust can arrange with you for a **conditional payment**—a payment that only comes due if you take an action that increases the land trust's stewardship liability.

Finding the Optimal Arrangement

The land trust will work with you to find a stewardship funding arrangement that both meets the stewardship funding needs and respects your individual financial situation and concerns.

WeConservePA publishes the guide *Stewardship Funding Arrangements* and many other resources to better inform people about conservation easements and stewardship.

Are Payments Tax Deductible?

The payments you make in support of stewardship are **very likely tax deductible** for federal tax purposes. Since WeConservePA and land trusts cannot provide tax advice, you should consult your tax advisor to establish certainty.

Payments required of future owners are not tax deductible.

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