



What is a Land Trust?

- A private, non-profit 501c3 entity whose mission is land conservation
- Known as the easement "holder"
- Has the right to monitor and enforce the conservation easement
- Typically visits the property once a year to ensure that the terms of the easement are being upheld



What is a Conservation Easement?

- Selectively removes rights from the title of the land
- Individually tailored
- Sold or donated
- Filed at the courthouse
- A legal agreement provided for under state law.
- Protects specific conservation values
- Generally perpetual in nature
- Runs with the land: binding on all future owners



Types of Conservation Easements

Donated easements are governed by IRS regulations, must be perpetual to qualify for a deduction (Section 170(h) IRC)

Purchased easements (Purchase of Development Rights or PDR). Governed by the rules of the organization funding the purchase. Term easement possible, pending organizational rules.

Bargain Sale – combination of donated and purchased. Most commonly used to offset tax considerations.



Agricultural Conservation Easements

- Generally perpetual
- Limits future non-ag use, but encourages ag enterprises
- Flexibility allows for economic changes
- Permits construction of new agricultural buildings, fences, waterings, and residential dwellings
- Does not require public access
- Does not provide immunity from condemnation
- Can be terminated but only under rare circumstances



Types of Purchased Agricultural Conservation Easements

Federal (Purchase of Development Rights)

- Agricultural Conservation Easement Program (formerly known as the NRCS Grasslands Reserve Program and the Farm & Ranch Protection Program)

State (PDR) – Texas Farm & Ranch Lands Conservation Program

- Managed by Texas Parks & Wildlife Department

Local / Resource Specific

- Example: City of Austin \$50 million open space protection bond initiative, 2006 – to protect Barton Springs



Purpose of Conservation Easements

- Protection of significant natural resources
- Protection of historical resources
- Public access for recreation or education
- Protection of specific values

*The purpose of an **agricultural conservation easement** is to protect the viability and productivity of agricultural lands while also protecting their conservation values.*



Negotiating the Conservation Easement

- Process essentially the same for donated vs. purchased easements
- Determine reserved rights
- Get an appraisal
- Develop a "baseline report"
- Easement is executed and filed in the real estate records at the county courthouse



Pros & Cons



Potential Drawbacks

- High transaction costs in some cases
- Limited funding for purchased easements
- Sale of easement subject to capital gains tax
- Tax benefits generally only available to the first generation
- Use of property is limited for the future
- Value of the property is reduced by the conservation easement



Potential Benefits

- Income tax deduction - donated
- Estate tax relief due to lowered appraised value - both donated and purchased conservation easements
- Facilitates succession planning and relieves pressure on heirs
- Binds a landowner's good intentions to the land in perpetuity
- Protects production, natural resources and conservation values of the land while eliminating the risk of fragmentation and non-ag development
- Convert equity to cash (purchased easements)

Can help landowners create a legacy for future generations!



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