Introduction to Conservation Easements

Working Hard for Working Lands™

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OUR MISSION

To help Texans conserve their agricultural lands, wildlife habitats, and natural resources, and to enhance and sustain the long-term stewardship of private lands for the benefit of all Texans.

A Changing Texas

1997 – 19 Million
2012 – 26 Million
36% increase
500,000/year
65% of increase occurred within Top Ten Populated Counties

Change in Total Population 1997-2012

For every 1,000 people who move to Texas, 200 acres of rural working lands are lost.
Texas is losing rural land at a faster rate than any other state.
This loss impacts our quality of life, and ability to produce food — and water resources.

A Changing Texas

The Urgency

Note: Red indicates conversion from ag land to development. Source: Texas A&M Land Trends Study.

A Changing Texas

The Primary Threat - Fragmentation

Development / Conversion
Estate tax
“Existential”
**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

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**A conservation easement is a voluntary, negotiated legal agreement between a landowner and a qualified conservation easement holder that permanently limits a property's uses in order to protect the property's conservation values.**

- It is the legal glue that ties a property owner’s good intentions to the land in perpetuity.

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**Types of Conservation Easements**

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

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**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

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**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!*

**CONTACT US**

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