**Protecting Open Spaces**

Most land in Texas is owned by private individuals; and, most Texans place a high value on property rights. Therefore, if progress is made in protecting open spaces, it will be with the support and cooperation of landowners. Fortunately, many landowners agree that protecting open spaces is a good thing.

This support should not be surprising. Many farms, ranches, and other lands have been held by a single family for generations. The land has real meaning for those families. The notion of having it broken into tiny lots for a residential development or flattened and paved over for a commercial development must be distressing for young and old within the family. The prospect of selling to a government agency might be only slightly less distressing for many families.

A conservation easement (CE) is a tool often used by landowners and advocates for land preservation to meet the needs and interests of all concerned. A CE is a legal document, voluntarily entered into by the landowner, which separates ownership of land from the right to develop the land. It requires all future owners of the property to maintain the property in the condition outlined in the easement. It is permanent and nearly impossible to rescind.

A CE is also quite flexible. It can be crafted to fit the requirements of specific landowners. Professionals who work with landowners emphasize the importance of landowners first having a vision of what they would like the land to be in twenty or one hundred years. A CE can then be drafted that will make the vision a reality. For example, a property owner with three children might include provisions that limit future homesites to no more than three. An owner who feels strongly about the importance trees might limit the cutting of trees or the cutting of trees of a specific type. One owner developed a CE that forbids the use of a specific herbicide on the property.

A CE is a complex legal document, which requires help from lawyers who understand the laws that control it, but the basic process is fairly straight forward. After the property owner has developed a vision for the future of the property, and a legal professional has crafted that vision into a CE, the owner grants the CE to a government agency qualified to act as a land trust or to a private qualified land trust recognized as a 501c(3) charitable organization. This agency or land trust is then the holder of the CE. The holder conducts and documents a base assessment of the land and agrees to inspect the land annually to ensure that future owners are complying with the provisions of the CE. The CE is recorded with the deed to the land, so that the restrictions are clear to all future owners.

Some CEs are sold, but most are donated or sold at less than market value. The value of this donation usually brings the landowner income tax, property tax, and estate tax benefits. Tax impacts vary depending upon the circumstances of the individual, but many landowners find tax reductions to be a major collateral benefit of preserving land.

Lands with CEs remain in private ownership. They may continue as working ranches or farms. And, they are protected from development forever. The result should be a win for the landowner, whose vision of the land will be carried into the future, and for the public, who will be blessed with open spaces.