

Conservation Easements

What are Conservation Easements ?

A conservation easement is a legal agreement a property owner makes to restrict the type and amount of development that may take place on the owner's property. A conservation easement can be written to meet the needs and desires of the individual landowner. For example, the easement can provide for limited development of a property in predetermined locations while protecting the most ecological or scenic portions. The specific rights and restrictions (what can and can not be done) are spelled out in each easement document.

Who can grant an Easement and to whom can they grant it (grantee) ?

Any owner of property can grant an easement. Easements may be granted to any public agency, such as your local town, or to a conservation organization, such as a land trust. Grantees would in turn be responsible for monitoring the property to determine if the easement restrictions are being adhered to. Although the grantee holds the conservation easement, ownership of the property remains with the landowner.



West Branch Fawn Brook, Hebron, Conn.

Why grant a Conservation Easement ?

Landowners often grant conservation easements to protect their land from undesirable development. Granting an easement in perpetuity assures that the property will be protected indefinitely no matter who the future owners are. The owner is free to transfer the land to a new owner, subject to the restrictions in the conservation easement. Conservation easements may yield financial and economic benefits to the landowner as explained later.

What kind of property can be protected by a conservation easement ?

Conservation easements can protect streams, ponds and other wetlands, farm and forest land, endangered or rare plant and animal habitat, and scenic or historic areas.

Does the public have access to land conserved by an easement ?

This question is up to the landowner. Public access may be restricted, allowed or not allowed.



How restrictive should a conservation easement be ?

A conservation easement is a tool a landowner may use to restrict disturbance on any portion of a property to the degree necessary to protect the attributes that make the property special. The easement may prohibit all future development of the property, allow for subdivision, or allow for some specified development. This enables a landowner's family the ability to realize a financial return on the property.

What tax benefits may a conservation easement provide a landowner ?

Conservation easements may provide a landowner with income tax, estate tax and property tax savings. A conservation easement donated or sold below fair market value to a public entity or land trust may yield

income tax savings. If such an easement is perpetual and for conservation purposes (preservation of land for recreation or education, habitat protection, scenic enjoyment or historical purposes), the donation is eligible for a tax deductible gift (note: certain conservation easements, such as a recreational easements, may require public access to claim an unreduced income tax deduction). An appraisal of the conservation easement would be required. A conservation easement may also reduce estate taxes. If the property owner has restricted the property by a perpetual easement, the property may be valued in the estate at its reduced, restricted value instead of at its fair market, development value. In addition, if a conservation easement reduces the development potential of a property, it may reduce the assessment value and the amount of local property taxes levied.

What other economic or financial benefits may conservation easements provide ?

An easement may allow for uses that generate income such as forestry (timber) or farming (i.e. hay field use) sales or rentals. Income from the sale of development rights of a property would yield income as well.

Some conservation easements are required by a local Planning and Zoning Commission at the time of subdivision. Why ?

Conservation easements may be desired by a local Planning and Zoning Commission to meet the Commission's open space requirement. Conservation easements are utilized by the Commission as buffers to wetlands and watercourses, to areas of ecological importance and to other development. Conservation easements are also utilized to protect the scenic value of a treed street, for the protection of historic stonewalls or other significant natural features of the property and for the preservation of agricultural usage.

What does it mean if my property has a conservation easement on it ?

If your property is subject to a conservation easement, please refer to the conservation easement filed with the property's deed. The conservation easement will identify uses that are restricted on the property. For easements deeded to your local municipality, uses subject to restriction may be allowed upon approval of an application to the local Conservation Commission. Remember, conservation easements and their restrictions often transfer from landowner to landowner !