



Conservation Easements

Question & Answer

What is a conservation easement?

A conservation easement deed is a permanent, legally binding agreement between a landowner and a qualified conservation organization or public agency that restricts use of the land to protect its significant natural features.

Who owns the land when a conservation easement is placed on a property?

As a landowner, you continue to own and have the right to manage your land while giving up the right to engage in certain intensive uses of the property. You will continue to be responsible for paying the local property taxes on the parcel.

Who can hold a conservation easement?

According to Wisconsin state law, conservation easement can be held by a qualified non-profit conservation organizations or public agencies and municipalities able to ensure that the property is protected in perpetuity.

Local land trusts are equipped to receive and enforce conservation easements and Public agencies such as towns and counties also hold conservation easements.

What uses are permitted on conservation easement land?

Typically, conservation easements held by Tall Pines Conservancy allow the landowner to continue to use the land for agriculture, forestry, non-commercial outdoor recreation, wildlife habitat management and all other uses that are compatible with the conservation goals for the property and not specifically prohibited by the easement terms.

What uses are prohibited on conservation easement land?

Conservation easements generally prohibit subdivision and development, commercial and industrial activities (except agriculture and forestry) mining and excavating, filling or disturbance of wetlands, and disposal of manmade waste or hazardous materials.

Can landowners request specific permitted uses on the property?

When you work out the details of the easement with the easement holder, you should try to anticipate as many future needs possibilities for the land as possible. Specific exceptions may allow an additional house lot on the property or the right to build and maintain roads and buildings. Sometimes landowners put conservation easements on only a portion of their property reserving full development options for the balance of their land.

Does the easement grant any rights to the easement holder?

The conservation organization that holds the easement has the right to enter the property to monitor its condition and the obligation to enforce the easement, in court if necessary, to ensure that the terms are upheld and the natural resources are protected.

How is the value of a conservation easement determined?

The value of the gift, for tax purposes, is the difference between the property's full market value before and after donation of the conservation easement as determined by a qualified land appraiser.

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How are conservation easements monitored and enforced?

Tall Pines Conservancy knows that the best way to prevent problems over conservation easements is to maintain a positive relationship and good communication with the landowners. The conservation organization that holds the easement has the authority and obligation to ensure that the natural resources are protected in perpetuity. Easement holders are responsible for regularly inspecting the site to make sure the property is maintained in compliance with the easement. If activities on the land violate the agreement, the easement holder may take action to halt the damaging activity.

Does granting a conservation easement give the public access to my property?

No, generally donated conservation easements do not automatically give the public any rights to enter or use protected property. Most easements let the landowner decide if or how to allow public access. However, if an easement is purchased with public funds, guaranteed public access for pedestrian recreation may be required.

Do easements restrict my ability to sell, convey by will, or give my land in the future?

No, you may sell or convey the land to a different owner at any time at any price. Conservation easements run with the land forever, so all future owners will be required to follow the easement terms.

Will I be asked to donate money?

To help cover the costs of insuring your wishes for the future of your land, Tall Pines Conservancy requests a donation to the Easement Stewardship Fund. This money provides funds for monitoring the property and for any legal expenses that may be necessary to enforce the terms of the easement.

What costs are involved with easement?

Conservation easements may involve expenses for items such as legal fees, survey and ap-

praisal costs, baseline documentation preparation or other professional services.

Are there financial or tax benefits to donating a conservation easement?

Donation of a conservation easement to a qualified conservation organization is treated as a charitable deduction for tax purposes as long as it meets federal tax code requirements. Consult a qualified legal or accounting professional to find out how these possibilities apply in your personal situation.

Federal Estate Taxes:

When a conservation easement is placed on a property, it typically lowers the property's value for federal estate tax purposes and may decrease estate tax liability. Therefore, easements may help heirs avoid being forced to sell off land to pay estate taxes and enable land to stay in the family. Under certain situations, conservation easements can be granted after the death of the landowner and still provide estate tax benefits.

Federal Gift Taxes:

The IRS requires recipients to pay taxes on gifts over a certain value. If you want to give your land to your children without requiring them to pay taxes on your gift, you may need to give the land in installments to stay below the taxable value level. Conservation easements may help to reduce the value of your property, making it possible for you to give all of your land to your children more quickly.

Local Property Taxes:

Land subject to a conservation easement may qualify for a reduction in assessed valuation, thereby reducing property taxes on the land. Under Wisconsin law, local property tax assessors are required to consider the effect of a conservation easement when setting the taxable value of the property.