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upon your particular circumstances.

When a conservation easement or other property is donated to a conservation charity such as ours, we will issue a tax receipt. You can then use the receipt to claim a credit (or a deduction for a company) to reduce your income tax. Under new tax rules, you can get full credit for a donated easement's value. You may be able to claim your donation against a larger portion of your income if an easement protects lands that qualify as "ecologically sensitive" under the federal Income Tax Act. Such tax advantages can result in significant benefits.

But how much is an easement worth in dollar terms? Land and easement values vary greatly, depending on the location and the agreement's terms. Generally, in areas of more development pressure, the monetary value of the easement donation can be greater. If there are no comparable sales of easements nearby, these agreements will be valued at the difference between the land's value with, and without, the easement. In any case, a proper appraisal is usually required to get a tax receipt.

If a conservation easement's

restrictions reduce the land's market value, this may also lower other land taxes. You might request that the property be reassessed at this lower value and thus be subject to lower property taxes. A lower property value would certainly decrease land transfer taxes upon sale and reduce any probate fees for transfers of property through a will.

Conservation easements also have value for the surrounding area. Protecting natural or cultural features helps maintain our local heritage - our natural resources, scenery and quality of life. A conservation easement may increase the value of nearby properties. An easement may also redirect or avoid development that would be very costly for a municipality and other agencies to service (with roads, sewers, school buses, etc.).

## **Next Steps**

A conservation easement is a creative agreement that allows you to protect your land into the future while maintaining use and ownership, and possibly receiving tax benefits as well. This pamphlet is simply an introduction to easements. Decisions about your land and financial affairs should be made only

after careful consideration and professional advice.

If you would like to find out more about conservation easements, please feel free to contact us. We would be pleased to help you and your advisors design a conservation easement that best meets your needs, and can explain the steps, criteria and costs involved.

Written by Ian Attridge, June 1998. With thanks to the EJLB Foundation for their support of this pamphlet, and to David Walker, Judy Eising and Linda Pim for their assistance.

# ***Conservation*** **EASEMENTS**



# *There is a powerful new tool - the "conservation easement" - to help you conserve the land you love.*

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**C**onservation easements (or covenants) allow you to protect your land permanently while still retaining ownership and ongoing use. This pamphlet explains briefly how "easements" work, and how they can also help reduce taxes.

## *How Conservation Easements Work*

A conservation easement is an agreement you sign with a qualified organization, such as ours. The easement places limits on land use to help conserve your property's features. With an easement, you still own the land and can continue to live on and use it, restrict public access to it, and sell, give or pass your property on to whomever you wish. An easement helps you control

future use and development on your land and enlists a conservation organization to help, even after the property changes hands. It is different than the more familiar rights-of-way or access easements that usually involve a narrow corridor across a property.

A conservation easement restricts uses, development or practices which would damage the natural or cultural features of your property. As agreements, they are documents that can be tailored to meet your own needs, the land's unique natural and cultural values, and the goals of the conservation organization signing it.

An easement is written up in a legal agreement that records the agreed restrictions and ensures that they can be defended. Once it is signed and registered in the land titles or registry office, an easement will bind current and future owners to its terms. Changes can be made to the easement by mutual consent, but would likely occur only if the

changes achieved the original intent or strengthened the easement's conservation value.

The conservation organization with which you sign an easement will take on the responsibility to occasionally monitor the property, usually through an annual, scheduled visit with you. If a future landowner or someone else violates the terms of the easement, the organization will normally approach the person to correct the problem. If the group is not successful, it still retains the right and responsibility to defend the terms of the agreement if necessary.

Conservation easements are useful for landowners in a number of situations.

They:

- ▶ can apply to all or only a portion of a property
- ▶ can be donated or sold
- ▶ can be created now, or later through a will

An easement created through a will should be negotiated well in advance to ensure that the easement achieves its intended goals. Other possibilities for easements can be those granted by developers to guarantee protection of part of a site or certain features of an entire site (e.g. mature trees) before development occurs. Easements can be entered into by a government to protect features on lands that it owns and expects to dispose of or sell later.

## *Tax Benefits That Apply To Conservation Easements*

The principal benefit of a conservation easement is that it helps you conserve your land. But it can also relieve you of certain land taxes and income taxes, depending