



Conservation Easements

photo: adbuilder.com

*Where tax relief and environmentalism find common ground.
How to protect your land for generations to come*

BY SARAH COX

Drive through the Commonwealth of Virginia and take in the beauty of our Piedmont region, the wildlife along the Eastern Shore, the meanderings of the Blue Ridge Mountains and the pastoral quietness of the Ridge and Valley region. Included in our state are 3.4 million protected acres, 621,888.94 of which are easements. According to the Virginia Department of Conservation and Recreation, 13.69 percent of Virginia's 25.27 million acres are protected as of June 2007.

More is being added every year, falling in line with Gov. Tim

Kaine's intentions announced in April 2006, when he stated that it was a goal of his administration to permanently protect 400,000 acres of land. That's what a land easement does—protects land in perpetuity, from generation to generation.

According to William Funk, easement specialist with Conservation Partners, LLC, an easement is a "voluntary restriction on land use that passes with the title in perpetuity." Say a farmer is nearing retirement,

has 350 acres of land but a tough time making ends meet and coming up with property taxes—yet he doesn't want to sell his land to

"Basically, I did it because we wanted to see this stay an open area. There has been so much construction around Smith Mountain Lake, and they're buying farms and putting 25, 50, 100 houses on them. I saw that, and my wife and I didn't want to do that. We wanted to leave our land to our children."

—Dan Hodges, Franklin County cattle farmer who donated 325 acres of land as a conservation easement

developers. A land easement is an alternative. Donors relinquish the right to develop their property, and

in doing so they lessen the land's market value.

What they get in return are several benefits: a federal deduction for the value of their easement, a state deduction on Schedule A of the Virginia tax return, and a tax credit, explains Taylor Cole, president of Conservation Partners. "Also,

under state code, the county or municipality is required to recognize the impact of the conserva-

tion easement on the property's value on tax assessment," he adds. The landowner is also given a tax credit number, which results in marketable credits. He can use them on his taxes to his advantage, or he can sell them.

According to Sarah Richardson, land conservation coordinator with the Virginia Department of Conservation and Recreation, a statute was passed 42 years ago that allows state agencies and the government to hold easements, but in the late 1980s land trusts could also hold easements. Tax credits for the year 2000 began to be given in 2001, and in 2002 those credits became transferable.

Funk explained that the basic land calculation goes like so: an appraiser will come up with a value, comparing the land to other properties and/or easements in the area. That number is post-easement, or the lower value of the property. Forty percent of that number, which is called the easement value (EV), can be used to offset state tax credits for 10 years. The landowner can also deduct 50 percent of the EV from his federal taxes for 15 years.

Conservation Partners can help landowners through this whole process, from determining if the land is a good candidate for an easement to selling the tax credits. Cole, who has a banking background, established the business in 2002; those who work for him serve as facilitators and consultants. "We pay a personal site visit to the property to talk to the owners about what they want the easement to look like. The easement spells out in detail what the landowner wants and what rights he wants, and provides a clear understanding of conservation values," says Funk.

Dan Hodges is a cattle farmer in Franklin County who went through this process, donating his 325 acres of land; it is now co-held by the Virginia Outdoors

Foundation and the Western Virginia Land Trust. In this case, it is held by two organizations because the Western Virginia Land Trust is essentially the local focus, helping the state organization—the Virginia Outdoors Foundation—monitor the property. Hodges' agreement includes the stipulation that he will be able to divide these 325 acres into three parts, allowing his three children to build homes on it.

Hodges wanted to prevent his land from being subdivided into houses. "Basically, I did it because we wanted to see this stay an open area. There has

been so much construction around Smith Mountain Lake, and they're buying farms and putting 25, 50, 100 houses on them. I saw that, and my wife and I didn't want to do that. We wanted to leave our land to our children." This land, he says, has been in his wife's family for almost 150 years. "I want this land to forever be open space. Space that people in the state of Virginia can drive by and see a beautiful sunset and nice, green fields."

An easement not only benefits the wildlife, water and scenic view. It not only helps out the landowner with tax credits, or with hard cash received from selling those credits to those who want to "lower the cost of the obligation [to the state] by claiming the credit against that obligation," explains Cole. It also greatly benefits a community's bottom line.

The American Farmland Trust has conducted a Cost of Community Services study over the last 20 years, concluding that working lands generate more public revenue

than they receive back in public services, while residential land uses do not cover the costs and have to receive subsidies. Essentially, says Cole, "keeping land in agriculture or woods is by far one of the most fiscally responsible decisions that a community can make. It's not rocket science: do you protect your farmland and that economic base, not to mention the water, air quality, scenic quality and its heritage? It is important for a community to protect those things rather

An easement not only benefits the wildlife, water and scenic view. It not only helps out the landowner with tax credits... It also greatly benefits a community's bottom line.

than develop and incur costs that go on forever." Cole and Funk have both bought into the program they promote, donating their lands to conservation easements.

In its seven years, Conservation Partners has also made some valuable connections because, says Cole, they ensure that their tax credits are high quality. That is, as opposed to easements that have been subject to review and challenge by the IRS and the Virginia Department of Taxation. "We only work with those who actually protect the conservation values of the property," he explains.

There are also restrictions on what kind of land can be donated as a conservation easement. The tax credits are given because the land is considered valuable, in terms of agriculture, forestry, wildlife or historic acreage. Funk says drafting an easement is complex and takes "a great deal of professional experience to adequately address." Conservation Partners helped Hodges sell his tax credits, as well as guiding him through the paperwork required by the state. It puts landowners in touch with attorneys, CPAs and appraisers who are experienced in land easement issues. And for this, he says, they

charge a six percent commission. The tax credits themselves are very marketable. Funk says that in 2007, they were selling credits at 82 cents on the dollar, and in 2008, it went up to 84 cents on the dollar. In the end, the landowner retains ownership of his land and it will always remain just that—land, woods, streams. Not developments.

"Seven days a week, I'm out on my farm, and I'd like to see it remain that way after I'm dead and gone. I've got a great view there of Windy Gap Mountain at sunset," says Hodges.

But the future of easement tax credits is uncertain, as are many government expenditures in this turbulent economy. The General Assembly will be reconsidering every line item this year in a budget-tightening mode. The land conservation easement tax credits will be on the table, along with everything else, points out Cole.

(Sarah Cox is a freelance writer based in Roanoke.)

EXECUTIVE CONCEPTS

SECURITY
COMPLETE SECURITY SOLUTIONS

Personal Protection Specialists
Uniformed Security
Private Investigators

PROTECTING your company
& individuals with
TEMPORARY SITE MONITORING

During employment terminations or high-risk situations our highly trained security professionals perform an array of security services:

- Risk assessment
- Security consultation
- Uniformed armed guards
- Plain-clothes personal protection specialists

540-314-4098
ExecutiveSecurityConcepts.com