

conservation easements



01/2020

a conservation easement is an excellent tool for permanently protecting property while retaining ownership. An easement is a legally binding agreement that permanently limits a property's use for all present and future owners of the land. Easements require that a qualified conservation organization (e.g., a land trust) or government agency (e.g., a township) hold the easement and ensure that the restrictions are honored.

Conservation easements require careful planning and consideration. The process normally begins with a discussion of the landowner's conservation goals and financial situation, followed by a tour of the property to determine whether it is appropriate for a conservation easement. Based on this information, a natural Lands staff member will provide recommendations and detail the steps involved. The entire process may require anywhere from a few months to a few years to complete, depending on the complexity of the transaction.

A conservation easement reduces the market value of the land because the owner gives up the potential for full development. When an easement is donated—in full or in part—the reduction in market value may allow the landowner to claim a charitable deduction for federal income tax purposes. The donation may also help the owner reduce his or her estate taxes, since the eased land is valued at less than the full fair market value. (These tax benefits are only available to the original easement donor, not subsequent owners of a property under easement.)

The following examples show several ways in which conservation easements might confer tax benefits while helping landowners achieve their conservation goals.

Please be advised that Natural Lands does not offer legal or financial consultation. The tax information in these examples is for illustrative purposes only. Please speak to your tax advisor before engaging in any conservation transaction.



Patrick Gardner

Dianna Germany was among the first group of buyers to purchase a lot at Bryn Coed with a conservation easement in place. She and her young family are part of a unique 1,505-acre conservation community that also includes our 520-acre Bryn Coed Preserve.



Sisters Kathryn K. McClure and Patricia Kraus Holt donated an easement on the family's property in London Britain Township, Chester County, that adjoins more than 3,500 acres of state parkland in Pennsylvania and Delaware.



The Cradle of Liberty Council of the Boy Scouts of America placed a conservation easement on their 4,000-acre Resica Falls Scout Reservation in Monroe and Pike Counties.

donating an easement

When landowners donate an easement, they may be eligible for a charitable deduction equal to the amount of the reduction in the land's value. A qualified appraiser determines the amount of the reduction.

example: The owners of a 50-acre, unprotected property worth \$500,000 decide to donate a conservation easement to Natural Lands. A qualified appraiser determines that the land's fair market value, once the potential for development is removed, is \$200,000. The owners would then be entitled to a federal income tax deduction of \$300,000 (the value of the easement) resulting in a potential savings of approximately \$105,000 (assuming a 35% tax rate). The land may also be assessed at the lower value for property and estate taxes.

Note that according to the current law, landowners may claim up to 50% of their adjusted gross income (AGI) each year for donating an easement, and this deduction can be carried forward for 15 years. Qualifying farmers can deduct up to 100% of their income.

selling an easement

A landowner may sell an easement to a qualified organization or government agency. If the easement is sold for its full value, it may create federal income tax obligations for either capital gains or ordinary income tax. Nevertheless, the owner's estate and property taxes may still be reduced because the market value of the property has been decreased by the conservation easement.

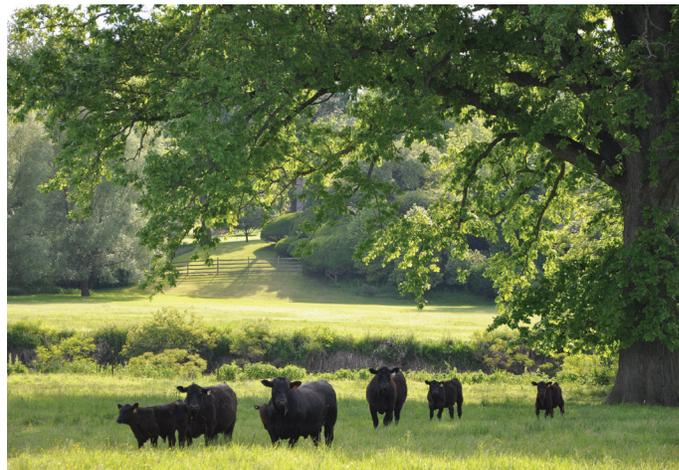
example: A family owns a 100-acre property with an easement value of \$500,000. A local watershed group wishes to protect this land so it offers to purchase an easement on the property. The landowner sells the easement at below fair market value (or bargain sale) for \$200,000. In this case, the donated portion (the difference between full value and the sale price or \$300,000) may qualify for a tax deduction and the landowner is responsible to pay taxes on the income (\$200,000) received for the easement. The tax savings will vary depending on how long the sellers have owned the property and how much they paid for it.

These transactions can become highly complex, and require consultation with a tax professional.

donating an easement via your will or living trust

An easement may be donated to either a qualified conservation organization or government agency by will or living trust. Such a bequest would generate a charitable deduction for the estate of the person making the bequest and it could also reduce the value of the estate so that it could be under the threshold that is subject to tax. This threshold is subject to estate tax laws that change from year to year. It is important to speak to your tax advisor to find out how this tax and a conservation easement might impact your financial planning.

example: A widow wants to ensure that the 50-acre farm she shared with her husband remains open space. None of her children want to move back to the land, so she decides to donate, via her will, an easement to her township's open space program. The land's fair market value upon her death is \$500,000. The easement reduces the value of the property to \$200,000. Her estate receives a charitable deduction of \$300,000 (the easement value), which may result in significant tax savings, depending on the total value of the estate.



courtesy of the Morris Arboretum of the University of Pennsylvania

Erdenheim Farm, an iconic agricultural landscape on the edge of Philadelphia, has been in continuous use since the days of William Penn. Through a collaboration, 234 acres are under conservation easment with Natural Lands, 189 acres are preserved by the Whitemarsh Foundation, and three acres are set aside for a township park.



"It is a privilege for us to carry on the tradition of farming at Meadowset Farm," says Tom Schaer. "We strive to be good farmers by practicing sustainability, and we are proud to be stewards of the land for the future generations that will farm after us."

Erin McCormick

conservation technique	retain ownership?	live on and?	tax benefit?*	income?
donate an easement	yes	yes	Yes (charitable income tax deduction; possible estate and property tax reduction)	no
sell an easement (at full value)	yes	yes	No charitable income tax deduction; possible estate and property tax reductions	yes
sell an easement (bargain sale)	yes	yes	Yes (charitable income tax deduction on the difference between full value and sale price; possible estate and property tax reductions)	yes
donate an easement via bequest	yes	yes	Yes (possible estate tax reduction)	no

* Tax benefits accrue in most cases; however, your personal financial situation will determine how much, if any, reduction you ultimately receive. Natural Lands is not a legal or tax advisor; it is essential that you consult your personal advisors.

monitoring easements and the costs of recording easements

Once a qualified organization holds the conservation easement, it is obligated to monitor the land on a regular basis to ensure that the easement is being upheld and to enforce it if it is violated. When picking a recipient organization, it is important that you choose a group that has the capacity and skills to fulfill this obligation now and in the future. The ongoing cost of monitoring is frequently covered by establishing a modest stewardship fund.

There are other costs involved in creating and implementing a conservation easement. A baseline study (inventory of natural and manmade features) of the conservation easement area must be prepared (this is usually done by the conservation organization). Then, the conservation organization must write and record the easement. Most organizations will ask to be reimbursed for these expenses. Of course, you will also incur expenses when you consult your attorney, financial advisor, and an independent appraiser.

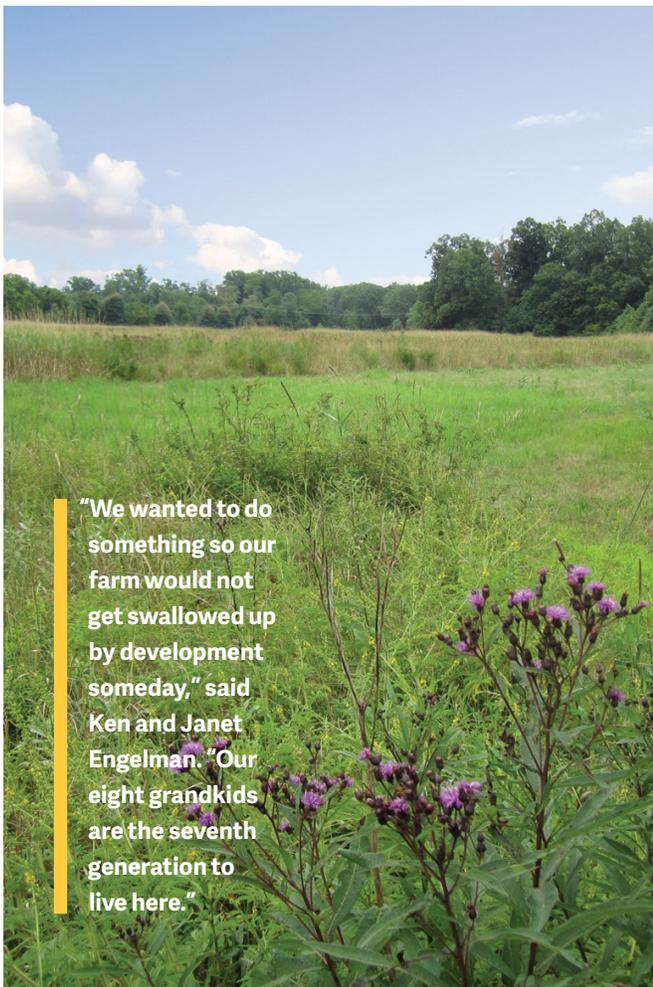
If you are interested in preserving your land, please contact Erin McCormick, our Conservation Easement Program Director. She will be happy to discuss your conservation goals and work with you to find a solution that meets them.

610-353-5587 x 255
emccormick@natlands.org.



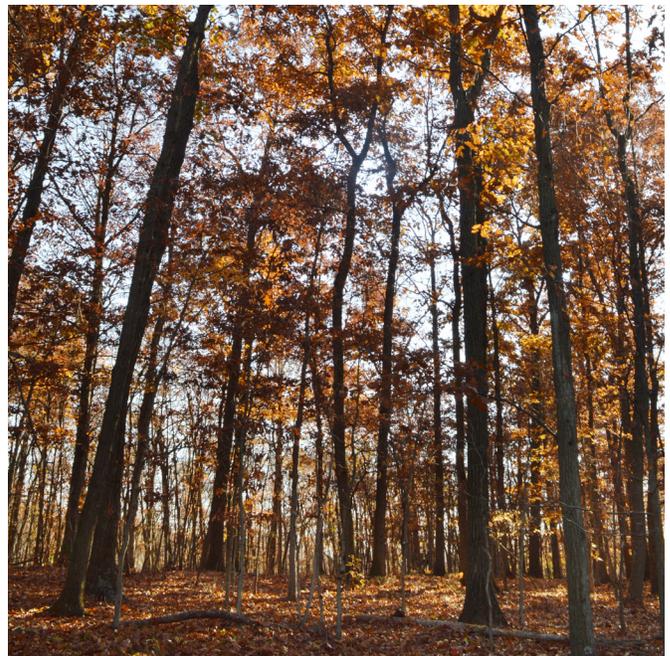
Steve Eisenhauer

In a combined conservation easement and fee acquisition in Millville, NJ, 14 acres of tidal marsh were permanently protected and another 51 acres were added to our Harold N. Peek Preserve.



"We wanted to do something so our farm would not get swallowed up by development someday," said Ken and Janet Engelman. "Our eight grandkids are the seventh generation to live here."

Erin McCormick



Mae Axelrod

Cumberland County, PA, though still relatively rural, is the fastest-growing county in the state. Seeing the signs of development, Silver Spring Township has begun a proactive and comprehensive approach to protecting the community's green space, including working with Natural Lands to secure conservation easements on key private properties.