



QUESTIONS AND ANSWERS TO PROTECTING YOUR CHERISHED LAND

Why should I grant a land preservation agreement to an organization?

People execute a land preservation agreement because they love their open space land, and want to protect their land from inappropriate development while keeping their private ownership of the property.

Granting a land preservation agreement to the Central Pennsylvania Conservancy can yield income and estate tax savings. CPC has the expertise and experience to work with landowners and ensure that the land will remain as permanent open space.

What is a land preservation agreement?

A land preservation agreement (conservation easement) is a voluntary legal agreement between a landowner and the Central Pennsylvania Conservancy that permanently limits uses of the land in order to protect its conservation values. The landowner continues to own the land and the easement does "run with the land" and is binding to future landowners, but the land can be sold or given to heirs just as any other private property. Donating the land preservation agreement may result in reduced income tax and estate tax, and possibly reduced property taxes.

The most common misunderstanding about land preservation agreements (conservation easements) is the belief that they must allow the public access to your property. This is not true. Public access is NOT a requirement on lands protected with a land preservation agreement (conservation easement).

Are land preservation agreements popular?

Very popular. According to the Land Trust Alliance, a national association representing land trusts since 1982, a record 5 million acres are protected through voluntary land preservation agreements. Landowners have found that land preservation agreements can be flexible tools, and yet provide a permanent guarantee that the land won't ever be developed.

How can a land preservation agreement be tailored to my needs and desires?

A land preservation agreement restricts development to the degree that is necessary to protect the significant values of that particular property. Sometimes this totally prohibits construction, and sometimes it doesn't.

Landowners and the Central Pennsylvania Conservancy, working together, can write land preservation agreements that reflect both the landowner's desires and the need to protect conservation values. Even the most restrictive agreements typically permit landowners to continue such traditional uses of the land as farming and ranching. A land preservation agreement may apply to the entire property or just a portion of the property.

Building envelopes for a home site (or future home site for future generations) can be built into the land preservation agreement as long as they do not disrupt the conservation values of the property. Other things such as hunting and sustainable forestry are often allowed within the terms of a land preservation agreement if this is what the landowner desires.

How long does a land preservation agreement last?

Most agreements "run with the land," binding the original owner and all subsequent owners to the agreement's restrictions. Only gifts of perpetual agreements can qualify for income and estate tax benefits. The agreement is recorded at the county or town records office so that all future owners and lenders will learn about the restrictions when they obtain title reports.

What are the Central Pennsylvania Conservancy's responsibilities regarding land preservation agreements?

CPC is responsible for enforcing the restrictions that the agreement document spells out. Therefore, the organization monitors the property on a regular basis -- typically once a year - to determine that the property remains in the condition prescribed by the agreement document.

CPC maintains written records of these monitoring visits, which also provide the landowner a chance to keep in touch with the land trust.

The problem with Deed Restrictions: The biggest weakness of deed restrictions is that they do not have a third party that can be designated to monitor and enforce the restriction. The law limits who can enforce restrictions and the length of time. For example, if you have restrictions in your deed and you then sell the property or give the land away without owning or keeping land nearby, your restrictions may not be enforceable by you, your heirs, or future owners!

Landowners may make formal and informal agreements without involving a conservation organization or government agency. Verbal agreements between neighbors, deed restrictions, and mutual covenants among the members of a homeowners association are a few of the most popular agreements. There is very little security that the land will be permanently protected as the restrictions depend on the interests of the private parties. There is no third party to legally enforce the agreements and there are no tax advantages for landowners who choose one of these methods.

What step do I take to write a land preservation agreement?

First, contact The Central Pennsylvania Conservancy at (717) 233-0221 to become acquainted with our organization and the services we can provide. We can explore with you the conservation values you want to protect on the land and discuss what you want to accomplish, as well as any development rights you may want to retain.

Always consult with other family members regarding a land preservation agreement, and remember that you should consult with your own attorney or financial advisor regarding such a substantial decision.

Conserving for tomorrow today!
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