



## Finger Lakes Land Trust Questions and Answers on Conservation Easements

### **What is a conservation easement?**

Conservation easements are voluntary legal agreements between a landowner and a land trust (or other qualified organization) in which the land owner places restrictions on the use of his or her property, in order to protect the natural value of the land. They are flexible and tailored to meet a landowners needs. Donation of a conservation easement protects your land permanently while keeping it in private ownership. A conservation easement, held by the Land Trust, provides permanent protection of the natural values of the site. The landowner retains ownership of the property and all rights and privileges for its use, except for the uses restricted under the easement.

### **What restrictions can be included in a conservation easement?**

As part of conservation easement donation process, the landowner, working with the Land Trust, identifies specific permitted uses of the property. These normally include agriculture, some types of forestry, recreation, and other open space uses. The easement limits or prohibits certain activities, including industrial, commercial, and residential development.

Conservation easements are designed to conserve forever the important resource values of each property. An easement may cover portions of the property or the entire parcel. It is legally binding on all future owners and will be monitored and enforced by the Land Trust.

### **What rights and responsibilities does the landowner retain?**

The landowner retains all other rights over the property including the right to sell, lease, transfer or mortgage. The landowner can use the land in any way that is consistent with the easement. The easement does not give the public the right to enter the property, unless the landowner specifically requests that this be allowed.

### **What are the benefits to the landowner in donating a conservation easement?**

- **New Tax Benefits!** In 2006, New York State implemented a Conservation Easement Tax Credit. Landowners whose land is restricted by a conservation easement would receive an annual, refundable state income tax credit equal to 25% of the combined town, county, and school taxes paid on the land during the previous tax year. The income tax credit is capped at \$5,000 per year for each qualifying landowner.

## New Federal Tax Incentives for Conservation Easement Donations made in 2006-07

Section 1206 of the pensions bill (HR 4) recently passed by Congress will help family farmers, ranchers, and other moderate-income landowners get a significant tax benefit for making the extraordinarily valuable donation of a conservation easement. This proposal will:

- Raise the maximum deduction a donor can take for donating a conservation easement from 30% of their adjusted gross income (AGI) in any year to 50%;
- Allow qualifying farmers and ranchers to deduct up to 100% of their AGI; and
- Increase the number of years over which a donor can take deductions from 6 years to 16 years.

This provision would be effective for donations made from January 1, 2006 through December 31, 2007. After that, the law would revert back to previous provisions, unless Congress extends the provision prior to the deadline.

- Knowledge that your land will be protected: Because each conservation easement is written in accordance with the landowner's wishes for future use of the land, the greatest reward for most landowners is the knowledge that their land's special features will be protected-- forever.
- Benefits for your community: Preserving undeveloped lands helps to retain the character of our communities. Agricultural and forest lands, natural areas, and scenic vistas are vital to the economic and environmental well being of rural areas. Permanently protected land aids communities in planning for future service needs. Conservation easements provide these public benefits at a fraction of the costs of outright purchasing of lands by a community. While zoning and public ownership can accomplish some land use goals, the gift of a conservation easement enables the private landowner to make a contribution to the community that will last forever.
- Income Taxes: The donation of an easement to the Finger Lakes Land Trust, a tax-exempt nonprofit organization, is a charitable contribution. The difference in the fair market value of the property before and after the restrictions, determines the value of the gift. This charitable gift can be deducted from income for federal and state income tax purposes, as long as certain IRS conditions are met
- Estate Taxes: If a landowner dies, the estate taxes on the property will be lower, if -- as is usually the case -- the fair market value of the property has been lowered

- by a conservation easement. This may make the difference between an heir being able to keep the land and having to sell it in order to pay the estate taxes
- **Property Taxes:** If your real property assessor determines that the market value of your property is reduced because of the restrictions, the property taxes will be lower. The property may be protected from substantial tax increases resulting from subsequent neighboring developments.

### **How does the Finger Lakes Land Trust fulfill its obligations?**

While the landowner is responsible for upholding the restrictions of a conservation easement, the Land Trust is responsible for enforcement, and monitors each property at least once a year. The gift of an easement should, if possible, be accompanied by a contribution to the Land Trust's stewardship endowment to fund the monitoring of the easement. This ensures our ability to meet our obligation to uphold the easement forever. The Land Trust, as holder of the easement, has a limited right of access for inspection.

### **How can I find out more information?**

Call the main office at (607) 275-9487 or write or e-mail the Finger Lakes Land Trust to talk with a staff member about your conservation goals.