



Afoot in the Field

A Resource for Conservation Landowners in the Finger Lakes Region

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Communication with the Land Trust—Why it Matters

The beauty of conservation easements is that they provide a mechanism for people to protect their natural and working lands forever with the understanding that you don't have to offer public access to provide public benefits. However, there is a close partnership between the landowner and the Land Trust that requires a long-lasting relationship and good communication.

If you are an owner of a property subject to a conservation easement, sometimes it can be difficult to remember that the Land Trust has a vested, legal interest in the property. It is very important to keep communication in mind when changes are contemplated. During the past year, we learned after the fact that one easement property was sold to a new owner and that another had been subdivided.

While both of these actions were permissible in accordance with the easement (all easement properties can be sold or gifted to another owner, and some allow limited subdivision), every easement has a provision that advance notice should be provided to the Land Trust.

This is not just for the sake of creating paperwork. It is very important that we know who the legal owners of the easement properties are at all times. It is our responsibility to reach out to new owners in a timely manner to make sure they understand the conservation easement and how the partnership works. Please do let our office know if you are planning to sell your conservation easement property, give it to your heirs, or exercise a subdivision right.

Property taxes

Property taxes are a fact of life that all private property owners learn to live with. The New York State Conservation Easement Tax Credit is available to most easement landowners. In some instances, the land itself can help pay the taxes and generate additional income (think agriculture or timber harvesting).

For those comfortable with letting people on their property, it may make sense to consider an income-generating enterprise or an in-kind service by leasing all or part of your property for specific uses. Most land leases are either agricultural—letting a farmer work your fields or pastures, and maybe even use barns or other buildings; or for hunting—granting exclusive hunting rights to one person or a group of people.

But, there are other types of leases as well. For example, some leases grant fishing rights, allow a trail route to pass through, or maybe even something creative like allowing a hot air balloon company launch from a hay field. A lease formalizes an agreement between a landowner and someone who wants to use the land, and it can provide for a cash payment or other in-kind service to be performed. The Land Trust, for example, has an agricultural lease whereby a farmer conducts agriculture in some fields within a nature preserve in exchange for mowing open meadow/grassland bird habitat for the Land Trust in other fields.

Most conservation easements do not prevent leasing of a property so long as the activity/activities to be conducted is/are permissible in accordance with the terms of the easement. Again, it's always a good idea to check in with us ahead of time to discuss your plans.



Chris Olney
Director of Stewardship

For questions or concerns regarding your conservation easement, please contact Chris Olney by calling the Land Trust at (607) 275-9487 or email chrisolney@fllt.org.

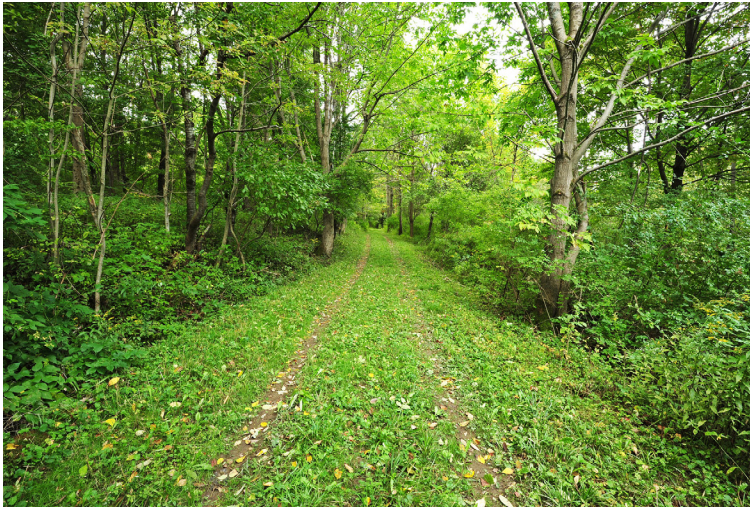
Landowner Profile:

Philip Cusick

FLLT: *Please tell us a little bit about how you came to own your 181-acre property in the town of Italy, Yates Co., which is adjacent to the High Tor Wildlife Management Area.*



PC: My sister, Carol Cusick Fenton, and her husband Tom — then of Rochester — bought the property in the mid 70s after seeing it with its then-abandoned house during a ski trip to High Tor. They bought it, planted trees, created clearings, kept the old house standing, and for years had many social and family gatherings. Carol and I are from Elmira, and while pursuing a long career at Michigan State University, I made multiple trips back to the area to see family, friends, and a brother at Seneca Lake. Enjoying the area so much — always did — my wife and I bought an abandoned farm in Schuyler County. Unfortunately in 2007, Tom died and Carol did not wish to continue ownership of the Yates County property. Our farm had already committed us to the Finger Lakes area and I,



having sold some land in Michigan, used the money from that sale and bought Carol's property.

Photo: Nigel Kent

FLLT: *What do you like most about the property, and what motivated you to donate a conservation easement to protect the property from future development?*

PC: I like it because: Tom and Carol owned it; it's high, open, and beautiful; there are thousands of lovely trees and walking trails (which I keep open); and because of its proximity to High Tor. Among my modest investments, none give me the hours of pleasure that I get from both my Schuyler County farm and from the Yates County property. Having torn down the fire-trap of a house, I've no worry about it. Unlike paper investments, the value doesn't go up or down. Or if it does, I don't care. I like the turkeys, grouse, fox, coyotes, owls, hawks, songbirds, and bears who pass through with some frequency. I like the pond, the spring, the piles of stones which my neighbor suggests are Native American grave sites. And I like that I can leave my four children and ten grandchildren a piece of property. As for establishing the conservation easement, I did it for all the standard reasons, but mostly to honor Tom and Carol.

FLLT: *As someone who lives in another state, do you find it challenging to visit the property as much as you'd like to, and be as involved as you'd like with the management of the property?*



Photo: Nigel Kent

PC: Probably not as much as I like but we spend our summers getting around Keuka Lake and the Schuyler County farm which is 30 miles away. So there is at least one day a week spent at the Yates County place wandering around, trimming trails, pruning trees, always thinking: “nature has nothing to do but grow.” As for management, there is none. Lumber people offer to buy trees, but I tell them: “I’m too old to grow another forest.”



Photo: Nigel Kent

FLLT: *How long have you leased exclusive hunting rights on your land to a group of hunters? What are the pros and cons to leasing your land? Do you have any advice for other landowners in regard to leasing?*

PC: Some of Tom’s friends continued using the house after he died, but after two in-house fires, the local authorities suggested I fix it or tear it down. I chose the latter. Now some members of a local family hunt in exchange for fewer dollars but they mow the paths and fields twice a year and do some trail-clearing. More important to me is that they take a proprietorial interest in the place, which I, having found that empty land tends to get taken over by people who want to shoot, hunt, ride their ATVs and trail bikes, etc., appreciate. They take care of the place the way I want it taken care of which includes a prohibition on machines. And I never get a call saying: “Phil, we have a problem.” Which call, in this, my 80th year on God’s green earth, I do not want.

Tips for Drafting Land Leases

- Have an attorney review and advise.
- The property owner is the “lessor” or “landlord” and should include all names on the deed. The person gaining access to the property for limited, specified purposes is the “lessee” or “tenant” and should include full name(s), legal business or incorporation name. All parties should sign the lease.
- Provide a precise beginning and end date for the lease agreement.
- Provide the property address, tax parcel number, acreage, and/or other detailed description of the land area to be leased. Attach a map if available.
- Provide the exact lease payment amount and due date or detailed description of services to be provided to landowner in exchange for the specified leased right(s). Try to research what typical lease payments are in an area for a given activity, as they can vary widely from place to place, and depending on property conditions (prime agricultural soils vs. rocky hill top soils; good/extensive wildlife habitat vs. poor/limited habitat).
- Specified right(s) to be leased should be described as clearly and concisely as possible with as little room as possible for misinterpretation. Differentiate between things that a lessee can do if they choose to versus things that they are required to do as a condition of the lease agreement.
 - For example: Does a group of hunters have the right/option of posting the property boundaries, or are they required to post the property boundaries? Does a farmer have a right/option of installing a gate to control access to a field, or is he/she required to install a gate?
- Consider providing certain performance standards or expectations.
 - For example: Hunters might be required to observe all game laws, not litter, not cut live standing trees over a certain size, remove tree-stands and other personal belongings from the property after the lease period ends, limit the number of guests they can bring, etc. A farmer might be required to maintain farm roads, mitigate any erosion that results from the work, not apply pesticides within 500 feet of a residence, not install any fencing, buildings, or other permanent structures, etc.

- Include clauses to address liability, insurance and damages in case of accidents, negligence, or misuse of the property.
- Include clause to prevent or limit sub-leasing to other parties.
- Specify what happens to any structures, materials, or personal property left on the property by lessee after the lease period expires.
- Specify if any areas of a property are off-limits for access by the lessee, or any activities conducted by the landowner that should not be interfered with.
 - For example: A lease agreement may specify that hunters leasing a property may not interfere with the landowner's use of the property for agriculture.
- Set forth conditions under which the lease agreement can be canceled or revised and how disputes are to be resolved.

Thinking of Selling Your Land?

Gifting Land To Your Heirs?

Thinking of Subdividing?

Please remember to notify the Finger Lakes Land Trust before making any changes in land ownership of a property subject to a conservation easement held by FLLT.

Advance notice allows us to check on subdivision limitations; provide information to realtors and prospective buyers; keep our files up to date; communicate promptly with new owners; and avoid problems or misunderstandings.





Gifford Schuster Conservation Easement, Ontario County

Photo: Gladys Gifford

The Finger Lakes Land Trust is a member supported, non-profit conservation organization that works cooperatively with landowners and local communities to conserve forever the lands and waters of the Finger Lakes region, ensuring scenic vistas, local foods, clean water, and wild places for everyone.

***Afoot in the Field** is a newsletter provided by the Land Trust for landowners in the Finger Lakes who own properties that are permanently protected with a conservation easement, or who are otherwise committed to, or interested in, land conservation and wildlife habitat protection and improvement. For more information about the Finger Lakes Land Trust and its conservation programs, visit www.fllt.org or call 607-275-9487.*

*Finger Lakes Land Trust
202 East Court Street
Ithaca, NY 14850
(607) 275-9487
www.fllt.org*

