

Conservation Easements (Donated)

Summary: The donated conservation easement is a permanent legal commitment to preserve the property's natural resources into the future. This commitment is between the landowners and easement holding agencies, such as a land trust like the Liberty Prairie Conservancy (LPC). Under a conservation easement, the landowner retains possession of the land, but gives up the right to develop the property. These restrictions stay with the property, even when it is sold. As a result, the property's fair market value usually drops. This drop in value is considered a charitable donation and can qualify the landowner for a large tax deduction. Conservation easements can be tailored to each property owner's needs as long as the conservation value of the property is protected.

Qualifying Lands: Land must possess significant natural, scenic or agricultural value and must not have restrictions that are difficult for the prospective easement holding organization to enforce. Proximity to another protected area, plant and animal species present, and water resources on site are examples of factors used to evaluate a property in consideration of whether it would qualify for a conservation easement. The LPC uses a scoring system to rate parcels under consideration and also reviews other factors as well.

Important Details: If the prospective easement gets the go-ahead by the land trust, the landowners are notified and work begins on the details. During this time, landowners must determine all their particular concerns to address in the easement and consult with their attorney. The property must also be appraised to determine how much value would be lost by giving up development rights. LPC must perform a baseline inventory of the property's resources and conditions, and consults with legal staff as well. The easement is then drafted and particular details are negotiated. When both parties are satisfied with the document, it is signed and officially recorded with the county. In some cases, LPC may provide financial assistance in the process.

Status of use in Lake County: In Lake County, there are 195 conservation easements totaling 4,082 acres.

Benefits to Landowner: Landowners who place conservation easements on their property qualify for significant reductions in property and estate taxes. Additionally, landowners are eligible for large income tax deductions in most cases, because the easement is considered a charitable contribution to the organization.

Tax Incentives: Land under conservation easement receives a significant reduction in property tax (approx. 75%), and estate taxes are reduced because of the property's loss of value. Landowners are also eligible for potential large federal income tax deductions in that they can deduct up to 50% of their adjusted gross income (AGI) due to the charitable donation associated with the easement. If the amount of money in this donated portion is greater than 50% of the seller's AGI, the remaining balance of the donation can be carried over for up to an additional 15 years. This is especially helpful for landowners having a large property value but not a high yearly income. The benefit is even greater for qualified farmers who can deduct 100% of their AGI for up to 15 additional years. It is important to note that after 2009, the income tax deductions drop down to 30% for a non-farmer, 50% for a qualified farmer, and the carryover becomes only 5 years.

Scenario: A property has a fair market value \$1million because of its development potential. The family then decides to place the land under conservation easement, dropping the value to \$200,000 because it can't

be developed. The family can then use the \$800,000 loss in value as a a federal income tax deduction. If the family's AGI is \$50,000, they can deduct one half of their entire AGI for the next 16 years.