



## 10 MYTHS ON CONSERVATION EASEMENTS

### **Myth #1. There's no significant benefit to an easement**

**FACT:** To start, you can reap significant income tax and estate tax benefits by simply donating a Conservation Easement. If the Conservation Easement is sold, then you would receive additional payments based on the reduction in fair market value due to the Conservation Easement on the land. Most landowners will donate their Conservation Easements as the funds needed to purchase Conservation Easements tend to be in short supply. Once an easement is conveyed, you will never have to refile for land use taxation as you will be automatically enrolled. In addition to the financial benefits, you have the ability to know that your desires for your property will always be upheld.

### **Myth #2. Selling or donating an easement means I can't use my land**

**FACT:** You would still own the land no matter if you donated or sold the Conservation Easement. You would be donating or selling the uses that you agree to remove from the property such as mining, building in certain locations, clear cutting forests, and many other uses of the land. You and the conservation organization that holds the agreement work together to oversee your land, and you remain free to manage it for recreation, timber or other natural resources that benefit you personally or financially. Landowners sometimes choose to reserve homesites for future development for their children or their retirement, or building sites for structures like chicken houses or greenhouses.

### **Myth #3. I can't sell my land once its in an Easement**

**FACT:** Land under a conservation easement can be bought and sold as any other private property transaction. Landowners never give up title to their property. They maintain rights to sell, lease, borrow against, and manage their land. The conservation easement outlines the vision of the landowner who has given up some development rights in order to protect the family's or individual's long-term goals on their property. A conservation easement is a tailored document with flexibility to the needs of the landowner. A landowner should never sign a deed without certainty that it represents exactly what they want.

### **Myth #4. Once in an Easement, I have to ask before I do anything**

**FACT:** This is not true. As stated earlier, Conservation Easements are made to be tailored to the landowner and property's needs. While each holder that you may engage with may require certain uses to be placed in the Conservation Easement, this does not mean that your hands are tied to that holder as there are many agencies, land trusts, and groups that help with holding Conservation Easements throughout the Commonwealth. We advise that you look at multiple options prior to entering into any agreements that you are unsure of making. In addition, Conservation Easement monitoring acts in a retroactive manner as there must be a clear violation of the Easement.

### **Myth #5. I have to let the public use my land**

**FACT:** Public access is not a requirement for conveying a conservation easement. As with any private property, the landowner chooses who to grant access to their land. The only individuals who must be allowed to access the land are the land trust and Shenandoah County in order to monitor the Easement and ensure that the property complies with the terms set forth with the Easement.

## **Myth #6. I have to keep farming the land**

**FACT:** Conservation easements are written to allow changes in agricultural practices. Furthermore, easements cannot require landowners to engage in farming and ranching if it is no longer economically feasible to do so. The point is to keep the land un-subdivided and relatively undeveloped. There will be no implications on you or future land owners if you decide to stop farming the property and intend to use it for open space purposes. In addition the Easement will not stop you if you wish to keep farming the land as the main purpose is to keep the land as it is, including growing crops, raising cattle, and other historic uses.

## **Myth #7. It will reduce the value of my property**

**FACT:** Conservation easements restrict subdivision, development and certain uses of the land, they typically do reduce the value of the subject property. This is generally the goal when the easement is being done for estate tax purposes. However, while an easement may reduce the value of the property, it does not freeze it. Easement encumbered land still increases in value over time. In addition, if you have outlined build areas on the property it is likely that when such improvements are made the property value could increase yet you will still be able to reap the benefits of a reduced tax rate with land use taxation.

## **Myth #8. I'll still have to refile for land use taxation each year**

**FACT:** This is not true. Once you have placed your land into a Conservation Easement, then you will automatically be refiled for land use taxation and you will not need to prove that you qualify for reduced taxation. Depending on the amount of development rights given up, the land will generally be taxed as agricultural land not as developable land. In addition, the Easement assures that there will be no speculative assessments on the property as the property will not be seen as having the potential of being converted into a subdivision. Currently, this is the only way that you can avoid refileing for land use taxation every year in Shenandoah County.

## **Myth #9. I have to put all of my land in the Easement**

**FACT:** A conservation easement does not have to encompass an entire parcel of land and can include provisions allowing landowners to reserve portions of the property as future building sites free from development restrictions. This type of structure will impact the conservation easement's value and may reduce the value for which the landowner is compensated. Many landowners choose to keep entire parcels or parts of parcels out of an Easement. We recommend that if you do intend to keep part of your property out of an Easement that it takes place on a separate parcel as the IRS prefers that exclusions from an easement or build areas are on separate parcels.

## **Myth #10. Only the rich can afford an Easement**

**FACT:** Landowners from all walks of life place conservation easements on their property. Currently the Alliance for the Shenandoah Valley offer a revolving fund which can help to cover the upfront costs of conveying a Conservation Easement and they are able to cover the costs through the sale of tax credits after conveyance of the Easement. In addition, Shenandoah County offers a program to select landowners in order to provide a direct monetary benefits at the end of the Easement process known as the sale of an Easement. If a landowner opts to donate an Easement, then you will be able to capture your monetary benefits through claiming or selling tax credits.

For more information, contact:  
Shenandoah County  
Conservation Easement Authority  
600 North Main Street, Suite 107  
Woodstock, Va 22664

Phone: 540-459-6204

Email: [THinkle@shenandoahcountyva.us](mailto:THinkle@shenandoahcountyva.us)



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