



DESCRIPTION OF A LAND TRUST

What is a land trust?

Land trusts are non-profit organizations that work hand-in-hand with landowners to protect our valuable natural resources. Land trusts have become increasingly important as sprawl, development, and pollution continue to impact open space and sensitive natural areas while overburdened governmental entities struggle to adequately address land preservation needs. Land trusts are uniquely positioned to take on the task of land preservation with expertise in conservation easements, land donations, and land purchases. Land trusts vary in size. They can be global, such as The Nature Conservancy, regional, such as The Brandywine Conservancy and Western Pennsylvania Conservancy, or local, like Manada Conservancy. Land trusts are helping communities and individuals save America's heritage without relying exclusively on governmental assistance.

How can individuals work with land trusts to protect their land?

Together, the land trust and the landowner(s) forge a plan that will satisfy both. The goal is to protect the natural resources on the land, for wildlife, agriculture, historical, scenic or water quality values. There are many ways to achieve this, and land trusts are specialize in helping landowners find the mechanism that will serve them best. Methods include donation of conservation easements, sale of conservation easements, donation of land, and sale of land. In general, the land trust acts as facilitator. Manada Conservancy uses its expertise and connections with agencies and other organizations to find the optimum method to preserve land. It does not have funds to purchase most properties.

What is a Conservation Easement?

Simply stated, a conservation easement is a restriction placed on a property. The restriction runs with the deed in perpetuity and is drafted jointly by the land trust and the landowner. In general, the restriction(s) limits the ability to subdivide the land and to develop it and is designed to protect its value as a farm, as habitat, as a historic place, an important waterway, or other public value. Such easements can be donated or sold to Manada Conservancy. The landowner still owns the land but knows that it will be protected for the future. Once the easement is placed on the property, present and future owners of the property must abide by the easement as written.

What kind of space do land trusts protect?

Land trusts protect open space of all kinds--wetlands, wildlife habitat, farms, ranches, shorelines, forests, scenic views, watersheds, historic properties, and recreational areas—



land of various sizes and types that has conservation value. Manada Conservancy focuses on lands in Dauphin County with high conservation value.

When did land trusts start?

The first land trust was founded more than 100 years ago in New England. The first American conservation easement was written in the late 1880's to protect parkways in and around Boston, and was designed by the architect Frederick Law Olmstead, Sr. Conservation easements, now the most popular means to protect land, came into widespread use after the Tax Reform Act of 1976 explicitly recognized them as tax deductible donations.

How many land trusts are there?

The number of land trusts has grown phenomenally, from 535 in 1985 to more than 1,700 today. Land trusts operate in every state as well as in Puerto Rico. In Pennsylvania, there were 103 land trusts as of January 2011.

Are land trusts successful?

Absolutely. The last census done by the Land Trust Alliance demonstrated that as of January 2011 approximately 47 million acres of wetlands, farms and ranches, wildlife habitat, shorelines, forests, recreation land and other property of ecological significance had been preserved by land trusts in the United States. This is twice as much land as is in all of the National Parks in the contiguous United States.



HISTORY OF MANADA CONSERVANCY

Concern for loss of farmland and wildlife habitat in the Manada Creek watershed prompted a group of local citizens to form Manada Conservancy in the fall of 1996. The group recognized that there was still good farmland and wildlife diversity in the region and hoped to help protect those resources as the region changed and developed. The group also recognized the need for environmental education and historic preservation.

The name “Manada Conservancy” was chosen because it was central to our original focus area and stresses the importance of the connection between waterways, land, habitat, agricultural resources, and the rich historical heritage of the region. The Manada Creek drains a long watershed, starting in the mountains and feeding into the Swatara Creek, which is a major tributary of the Susquehanna River. Abundant wildlife can be found along both waterways and the streams also have a rich human history. For example, there is much evidence of Native American settlements along the creeks throughout Dauphin County and the early history of European settlement can be seen in the numerous mills, forts and Union Canal structures evident in many locations.

The Conservancy was formed as a private, charitable organization that accepts financial donations, donations of land and conservation easements. The Conservancy holds the land and easements and the land is left in its natural state into perpetuity. The Board of Directors is comprised of a maximum of 17 individuals drawn from the region we serve. The Conservancy is a member of two professional organizations, the Pennsylvania Land Trust Association and the National Land Trust Alliance.



PROCEDURES FOR PRESERVING LAND WITH A CONSERVATION EASEMENT

1) Initial Contact

We are often contacted by landowners who want to learn more about preserving their land. Representative(s) from Manada Conservancy are always happy to provide information or to discuss potential preservation projects with landowners. The Conservancy will ask the landowner what his or her objectives are for the property, and can explain the tools we use for land preservation, as well as the process of how conservation easements are placed. We also have a packet of written information that we can provide, which is useful background for both landowners and their advisors.

2) Site Visit

If the landowner would like the Conservancy to pursue the possibility of preserving his or her land, representative(s) of the Conservancy will ask to tour the property. This tour will help the Conservancy identify specific conservation values and resources on the property, and get an idea of the uses and needs of the landowner relating to the property. It will also help the Manada Conservancy Board of Directors determine if the property meets our Selection Criteria for natural resource value and public benefit.

3) Organization Review

Once they have seen the property and conducted computer mapping, the Manada Conservancy Preservation Committee discusses the potential acquisition, and makes a recommendation to the Board of Directors whether the Conservancy should pursue the project. We will need to know ownership and mortgage details, information to help us understand the resources needed to complete the project, and whether we have the capacity to do so. If the property satisfies the criteria for conservation projects, the Board will authorize an appropriate representative of the Conservancy to work with the landowner to learn more about the property and, in the case of a conservation easement, to draft the easement. This decision by the Board to pursue the project is not binding on either the landowner or the Conservancy, but authorizes the Conservancy staff to begin spending time on the project.

4) Manada Conservancy contact and Advice to Consult Professional Advisors

Once the Conservancy is committed to the pursuit of the acquisition, a primary and secondary contact for the project is established. These two preservation specialists



will work with the landowner throughout the process. The landowner will be advised to consult with legal and tax advisors or any other experts deemed necessary, if this has not already been done.

5) Appraisal

When the acquisition is a donation, it is the donor's responsibility to obtain an appraisal. The Conservancy has an ethical obligation to conclude an honest transaction and should advise the donor to obtain his/her appraisal from a well-qualified appraiser who is knowledgeable about conservation easements. An appraisal is not usually required by Manada Conservancy but is required by the IRS if the donor wishes to take a deduction for the donation. The appraisal determines the value of the property before and after the easement donation so that the amount of the donation is established.

6) Title Search

The Conservancy will conduct a preliminary title search on the property. This will determine whether there is a mortgage or other lien on the property, whether the landowner owns the mineral rights on the property and whether the landowner has legal authority to donate or sell a conservation easement. It also shows other easements, such as power or gas line easements existing on the property.

7) Intent to Place a Conservation Easement document is drafted and signed so that both the landowner and Manada Conservancy are legally setting forth their intent to proceed.

Before the Conservancy can begin to spend money on formal studies of the land and devote extensive staff time to a project, the Conservancy needs assurance that the landowner is committed to the project and the landowner needs to know that the Conservancy will do its part to complete its obligation to protect the land as desired. This document also often sets forth how and when the stewardship donation or funding will be acquired.

8) Easement Is Drafted

A draft easement is developed cooperatively by the Conservancy and the donor using the natural resource information and field observations by the Conservancy, and the landowner's goals for the property. The easement is a flexible document which can be tailored to specifics of the property and of the landowner's needs for the future use of the property. The document also contains language which complies with Federal tax deduction requirements.



9) Formal Approval of Easement

Once the easement draft is completed to the satisfaction of the landowner, the Conservancy representatives, and the attorneys for both parties, the Conservation Easement is formally approved by the Manada Conservancy Board of Directors.

10) Baseline Data Inventory

Once the easement is agreed upon, and a date for execution is established, a Baseline Document study is prepared by the Conservancy. This report establishes in writing, maps and photographs the condition of the property at the time of the placing of the easement. The Baseline Document is retained in the Manada Conservancy's records and is included by reference in the Conservation Easement. The landowner reviews the document for accuracy. Before the Easement signing, both the landowner and Conservancy acknowledge with their signatures that the Baseline is truly representative of the property at the time it is inventoried.

11) Execute and Record Agreement

The landowner and an officer of Manada Conservancy will sign the Conservation Easement. It is then recorded in the office of the Recorder of Deeds of the County where the property is located. At this point the Conservation Easement is legally binding on both parties: the landowner to abide by the Easement, and the Conservancy to enforce it in perpetuity.

12) Publicize Results and Express Appreciation

If appropriate and only if the landowner grants permission, the Conservancy distributes press releases and creates media events to publicize the preservation. Local government agencies are also notified of the easement. If the easement was donated, a letter is sent to the landowner expressing the Conservancy's appreciation. This acknowledgement is also needed for a landowner seeking a tax deduction for the easement donation. Signs will be erected on the property with the donor's permission.

13) Annual Easement Inspections

The Conservancy will inspect the property at least annually, at the landowner's convenience, to document that the terms of the easement are being upheld.



COSTS AND BENEFITS OF DONATING A CONSERVATION EASEMENT

Those considering the donation of a conservation easement often have questions about the benefits and costs of doing so. This brief section is intended to answer some basic questions. Manada Conservancy recommends consultation with a knowledgeable professional, such as an attorney and/or accountant, for advice about the financial consequences of a specific easement donation. Manada Conservancy is happy to meet with the consultants, and to discuss and explain more about conservation easements and how they work, if this is desired by the landowner.

Benefits

The primary benefit to the donors of a conservation easement is the knowledge that they have protected their property from development that would harm its conservation, agricultural, ecological or scenic value. With this also comes the legal assurance that Manada Conservancy will protect the property in perpetuity as stipulated in the easement language.

If the conservation easement is donated to Manada Conservancy, the difference between the value of the land without the easement and the value of the land with the easement can often be deducted as a charitable donation on the donor's tax return. Manada Conservancy is a 501(C)(3) organization and is eligible to receive such donations.

Since the value of the land is generally less with an easement placed on it, heirs of the property may find that the estate tax is lower than it would have been without the easement. This has enabled some heirs to keep a farm that would otherwise have had to be sold to pay the estate taxes.

Costs

There are three major expenses involved in donating an easement. They are:

Appraisal

In order for an individual to take a tax deduction on his/her federal tax return, the IRS requires that an appraisal be done. The appraisal provides the owner with two values. (1) Fair market value (the value if one were to sell the property today at its highest and "best" use, usually defined as the value for development); and (2) The value of the property if it were to stay strictly as farm and/or natural lands (as would be the situation



with a conservation easement). The difference between the two is the value of the conservation easement. Manada Conservancy strongly recommends the use of a well-qualified appraiser experienced in the evaluation of conservation easements. Appraisal costs vary depending upon the size and complexity of the property.

Legal and Accounting

It is important to consider consulting with an attorney and an accountant. These costs would depend on the landowner's use of these professionals. We can sometimes help the landowner with legal costs.

Stewardship Donation

Manada Conservancy requests a stewardship donation. These funds provide an endowment that will ensure sufficient resources to oversee the protection of the property in the future. Donation amounts depend upon the size of the property and various risk factors that may be associated with the property. Our policy for the use of these funds is available on request, as well as the formula used to calculate the appropriate amount. The stewardship donation is tax deductible. Depending on circumstances, there may be ways in which the Conservancy can work with a landowner to accommodate their financial situation.