Conservation Easements 101

Jane Myers, Land Conservation Manager | October 26, 2022
Capital Region Land Conservancy’s Mission is

to conserve and protect the natural and historic land and water resources of Virginia’s Capital Region for the benefit of current and future generations.
Capital Region Land Conservancy

Formed in 2005, CRLC is the only land trust dedicated solely to protecting the Richmond Region’s water quality and scenic, ecological, and wildlife resources through private land conservation.
CRLC has helped protect over 13,000 acres across our region!
We have 5 people on staff and are growing!
In the United States, 13% of the land is protected.
Only 5.5% of land in the Richmond Region is permanently protected.

At least 21% of the land along the Appomattox is protected!
FOLAR Land Conservation Analysis
“Every 30 seconds, a football field worth of America’s natural areas disappears to roads, houses, pipelines, and other development.”

- source Center for American Progress
So what is a land trust? What does that mean?
“Estates, Trusts, and Wills”

“Trust” – a place in which you place something of value
A conservation easement is...

- Voluntary legal agreement between a landowner and a land trust or government entity – each agreement is unique
- Easements are deeds that are recorded in a county or city by the Clerk of Circuit Court
- In the deed specified uses of the land are restricted in order to protect the land’s conservation values
- Landowner continues to own the land
- Easements do not require a landowner to allow public access
- Conservation easements are perpetual meaning they are forever
Landowner Benefits

- Peace of mind knowing that personal goals for your property have been achieved - priceless
- Federal Income Tax Deductions
- Virginia State Tax Credits
- Permanent reduction in local property taxes – “land use taxation”
Public benefits

• Help sustain the TOP TWO economic industries in the Commonwealth
• Help preserve Virginia’s rural heritage by protecting prime agricultural soils, scenic views, wildlife habitat, and lands and water for hunting and fishing
• Protects *cultural and historic sites* before they are potentially lost forever to development
• Preserves quality of life for all of us
How does CRLC evaluate a property for a conservation easement?
Are there conservation values on the property worthy of protection?
Would a conservation easement on the property align with the City or County’s current master plan, the Comprehensive Plan?
CRLC staff make a visit to your property to talk to you and see your property.
CRLC visits the property to see it and discuss your goals.
Gather a small team of experts to guide you through the process.

1) A Conservation Easement Attorney
2) A Certified Easement Appraiser
3) A knowledgeable CPA
Does the landowner have clear title to the property and are there any environmental issues?

Does the property have a legal property description, accurately marked boundary corners or a survey?
Step 5 – Questions for the landowner

What do you want to be able to do with your land? Continue farming? Grow and harvest trees? Create wildlife habitat? Restore native habitat? Have a family retreat?

What are your goals...the land trust you chose to hold your easement should share and understand your goals.
Negotiate/Record a Deed of Easement

CRLC Standard Template March 2019

This sample deed is provided to assist landowners and their attorneys in preparing deeds of easement to be conveyed to Capital Region Land Conservancy (CRLC). As each property contains unique conservation values, staff may recommend provisions appropriate to individual properties. Landowners should discuss present and future land management practices with staff before preparation of the deed of easement. CRLC does not provide legal or tax advice or warrant that this template will meet all IRS or Virginia Department of Taxation requirements or the Virginia Land Conservation Foundation’s Conservation Value Review Criteria for easements valued $2.5 million dollars or more. An easement will permanently change how the property may be used and its market value. Because this change can have major estate planning and tax consequences, landowners should consult legal counsel prior to submission of their proposed easement to CRLC for its consideration. Selection of alternative provisions should be made and guidance instructions in italics and brackets should be deleted.

NOTE TO TITLE EXAMINERS: This conservation easement contains restrictions on permitted uses and activities on the property described below, which run with the land and are applicable to the property in perpetuity.

Prepared by: [landowner’s attorney]

Return to:
Capital Region Land Conservancy
P.O. Box 17306
Richmond, VA 23226

TAX MAP NO. or PIN: ________________

Exempt from recordation tax
under the Code of Virginia (1950), as amended, Section 58.1-811 (D)

THIS DEED OF GIFT OF EASEMENT (this “Easement”), made this ___ day of __________, 20___, [between or among] ______________________, [Underline or capitalize surname of individual(s)] [collectively or together “Grantor”] [Include marital status of Grantor]; THE CAPITAL REGION LAND CONSERVANCY, INC., a Virginia non-profit corporation, whose address is P.O. Box 17306, Richmond, VA 23226 (“CRLC”), to be indexed as Grantee (the designations “Grantor” and “Grantee” refer to Grantor and Grantee and their respective successors and assigns); [if lien] ______________________ (“Lender”) to be indexed as Grantor; and ________________ and ___
Step 6 Drafting and Recording the deed

- **Recitals** – All the documented reasons a property should be conserved
- **Purposes** – Why, by law, the property qualifies as a conservation easement
- **Restrictions** – all the ways the conservation values will be protected
- **Enforcement** – what the land trust promises the landowner they will do to protect the property forever
- **Documentation** – Ways that everyone knows what the property looked like when the easement was recorded
An example of a Recital:

“WHEREAS, the Property fronts on the James River for approximately 1,500 feet, and contributes to the views enjoyed by the public ...”

“WHEREAS, the Property contains approximately 110 acres of Prime Farmland Soils and approximately 21 acres of Soils of Statewide Importance, as classified by the Natural Resources Conservation Service of the United States Department of Agriculture, and protection of the Property from intensive development hereunder will help preserve these productive soils for agricultural production.”
Example of **Restrictions**: # of divisions

“Division - Separate conveyance of the Property or division of the Property is prohibited.”
Ex. of Restrictions: “No Build Areas”
An example of Enforcement:

“CONTROL OF THE PROPERTY. Nothing in this Conservation Easement shall be construed as giving rise to any right or ability in CRLC to exercise physical or managerial control over the day-to-day operations of the Property or any of the Grantor’s activities on the Property, or otherwise to “participate in management” of the Property, ...”
Peace of Mind

Financial benefits

Virginia Tax Credits and Federal Tax Deductions are determined by a conservation easement appraisal. The landowner works with a qualified appraiser to determine the easement value.
FOR EXAMPLE ONLY:

Pre-Easement value of Property $1,000,000
Post-Easement value of Property $600,000
Conservation Easement Value (diff between the 2) $400,000

Tax Credits are 40% of Easement Value
Federal Tax Deductions are based on total Easement Value
“Of all the questions which can come before this nation, short of the actual preservation of its existence in a great war, there is none which compares in importance with the great central task of leaving this land even a better land for our descendants than it is for us.”

- Theodore Roosevelt