



## **Landowner Information Packet**

Please review and feel free to call us with any questions that you might have.  
We look forward to speaking with you about your conservation goals.

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## INTRODUCTION

Thank you for contacting The Land Trust for Tennessee. We are a statewide non-profit, non-governmental organization with a mission to preserve the unique character of Tennessee's natural and historic landscapes and sites for future generations.

The Land Trust for Tennessee (LTTN) uses conservation easements as the primary tool to protect land. A conservation easement is a legal agreement by which landowners voluntarily place restrictions on the future use or development of their property. LTTN is responsible for insuring that your wishes and the land's conservation values are protected forever. Land protected by a conservation easement remains in private ownership, and may be sold or left to heirs. Depending on your situation, you may also receive significant income tax deductions, a reduction in estate taxes, or an adjustment of property taxes by participating in this conservation effort.

You know your land best. As you think about the future, you may be asking yourself: What will happen to my land in the years ahead? Can my family and children afford to keep it? Will the next owners care for it the same way that my family has? Are there ways to protect the special attributes of the land, yet still meet our financial and personal goals? What will happen to our land because of development pressures or inheritance taxes and what are my options? A *conservation easement* may help answer some of these questions.

## How does a conservation easement affect my property rights?

A landowner who conveys a conservation easement retains all rights to use the land in ways that do not interfere with the conservation goals stated by terms of the easement. Each easement is tailor-made to the property and landowner interests.

Rights retained include:

1. The right to sell the property. The new owner(s) must conform to all terms of the conservation easement.
2. The right to farm or manage timber.
3. The right to hunt or to restrict hunting.
4. The right to transfer the land to heirs.
5. The right to restrict public access.

Physical access is not required for "scenic enjoyment."

## How does my land qualify for protection through a conservation easement?

As the property owner, you see important natural or historic features of your land that should be protected, and you are willing to give up development rights in order to achieve their protection. In order to donate your development rights to The Land Trust for Tennessee and be eligible for tax benefits, the IRS requires that one of these "qualified conservation purposes" are met:

1. Preservation of open space, including farm and forest, for scenic enjoyment.
2. The protection of natural habitats of fish, wildlife or plants.
3. The protection of historically important land, buildings or other structures.
4. Preservation of land areas for outdoor recreation by, or the education of, the general public.

We also have specific criteria, such as the property's location and unique conservation values, that determine whether LTTN is the appropriate organization to protect this property. There is no minimum size requirement, and we protect urban, suburban and rural lands. You may also place a portion of your property under easement or phase an easement in over time.

### **What rights does The Land Trust for Tennessee have on my land?**

If LTTN holds a permanent conservation easement for your property, we are committed to enforce the easement forever. In order to do that, we inspect the property with the landowner once a year to ensure that the agreement is being upheld. Such inspections become especially important when the property's ownership changes hands, for it is our promise to you that your preservation goals be met forever. In addition to the annual inspection, the stewardship staff is available year-round to assist the landowner with any questions that may arise.

### **Are there tax benefits to protecting my land with a conservation easement?**

Beyond the great satisfaction of knowing that you are preserving your special land, you may also be eligible for certain tax benefits. A conservation easement may reduce:

1. Federal income and/or capital gains taxes
2. Local property taxes
3. Estate taxes

### **What are the costs of placing a conservation easement on my property?**

We raise funds to pay for our staff to facilitate the project from start to finish. The costs you incur are for your professional advisors as well as a contribution to the stewardship fund used to uphold your easement over time. Your costs may include:

1. Professional, certified appraiser to determine the value of the conservation easement (if pursuing a tax deduction)

2. Your attorney to review the conservation easement, consult with you, provide a legal description, and verify a clear title to the land
3. The cost of recording an easement
4. Stewardship fund donation

### **How long will it take to place a conservation easement on my property?**

Initial contact with us to recording of the easement takes about 3-6 months. Multiple owners, deed issues or complex easement provisions may extend the time it takes to complete the easement.

### **TO LEARN MORE, CONTACT THE LAND TRUST FOR TENNESSEE**

We are prepared to help. Contact us after you have read through this information so that LTTN may work with you, as well as your financial and legal advisors, to determine if a conservation easement is the best way for you to leave a legacy of natural beauty and historic value for future generations. Our first step is a visit to your land.

#### ***Conservation Staff:***

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Emma Davidson, Director of Conservation  
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Gentry Barden, Board Chairman, *Former  
Healthcare Lawyer & Investment Banker*

Doug Cameron, Stewardship & Conservation  
Committee Chair, *Wilderness Medical  
Associate*

Joe Hodgson, Vice-Chair, *Hodgson Douglas*



## *Tax Benefits of Donated Conservation Easements*

### **Federal Income Tax Deduction:**

The donation of a conservation easement that meets certain charitable requirements can qualify as a tax-deductible gift. These requirements include a provision that the easement must be donated in *perpetuity*, and must be donated to a *qualified charitable organization* such as a land trust or government agency that has the *commitment and resources to enforce* the easement. And finally, it must be donated *exclusively for conservation purposes*. In other words, the conservation easement must provide some sort of conservation benefit to the general public (please note that this does not mean physical public access to the property).

For income tax purposes, the value of the easement is the difference between the value of the land with the easement and its value without the easement. This amount is determined by a qualified appraiser using a specialized appraisal process. Once the easement value has been determined and the easement has been recorded at the deeds office, the donor can deduct the easement value from their federal income taxes. The tax law places limitations on the maximum annual charitable deduction a donor may take. Generally, for a gift of long-term capital-gain property (which includes most gifts of conservation easements) the amount the donor can deduct in one year is limited to 50% of their adjusted gross income. If the value of the gift exceeds 50%, the donor can carry forward the excess for up to fifteen additional years, applied each year up to the 50% limit. Any remaining deduction after the sixteen years (year of gift plus 15 years) cannot be used.

### **Estate Tax Benefit:**

- 1) **Reduction in value of the estate:** Any land subject to a conservation easement included in the estate is valued as restricted by the easement and not as the unrestricted value. This can help on both Federal and State estate taxes.

Note: The reduction in value of a landowner's property due to a conservation easement may be much greater when he dies than when the easement was originally donated, because land values have most likely appreciated since the conservation easement was conveyed. As the development potential eliminated by a conservation easement appreciates, the reduction in value attributable to the easement, and therefore the estate tax savings, also increases. (Lindstrom, C. Timothy. [A Tax Guide to Conservation Easements](#)).

- 2) **The 2031(c) Exclusion:** This section of the Federal Tax Code says that if you die owning land subject to a conservation easement, in addition to the reduction in land value because of the easement, the estate can take an additional exclusion of 40% of the already reduced land value.

- The 2031(c) exclusion is capped at \$500,000 no matter what the value of the land is subject to the conservation easement.
- The 2031(c) exclusion applies to land value only, not the value of the structural improvements on the land.
- The 2031(c) exclusion only applies to easement protected land that has been held by the landowner or a member of their family for at least three years prior to the landowner's death.
- The 2031(c) exclusion benefit is available to each succeeding generation of landowners as long as the land remains in the family and is not sold to a person outside the family.
- The 2031(c) exclusion is for Federal taxes only and does not apply to state taxes.

**3) Conservation easements by will:** Landowners who are reluctant to donate a conservation easement during their lifetime can always consider a conservation easement by will. Conservation easements contributed by will are not eligible for federal income tax benefits but are eligible for an estate tax deduction, similar to those discussed above.

Landowners considering a conservation easement by will should discuss their intentions with the Land Trust that they would like to hold the conservation easement. Most Land Trusts prefer to have the conservation easement drafted in advance and attached to the landowner's will (or at a very minimum, the will should contain specific language about the conservation goals of the landowner). This will make the process much easier for the Land Trust and the Executor of the Estate upon the death of the landowner.

**4) Post-mortem conservation easements** Section 2031(c) of the Federal Tax Code also allows for a unique estate planning tool- the post-mortem conservation easement. If a landowner owns conservation-worthy land at the time of his death, this provision allows a family or executor to place a conservation easement on the land after death or post-mortem.

A post mortem conservation easement allows an estate to reap the same estate tax benefits (mentioned above) that would be applied had the conservation easement been donated during the lifetime of the landowner. A post-mortem conservation easement must be completed prior to the due date for the estate tax return (typically nine months after the date of the landowner's death). Post mortem conservation easements only qualify for estate tax benefits if no income tax deduction is taken in connection with the donation.

**We are happy to discuss these options with you. Please feel free to contact us with any questions.**

Information summarized from Lindstrom, C. Timothy. [A Tax Guide to Conservation Easements](#). Washington, DC: Island Press, 2008

## *Donating Land to The Land Trust for Tennessee*

In addition to accepting donated conservation easements, The Land Trust for Tennessee accepts donations of land of all types. Donating land is especially attractive to landowners who:

- Do not have heirs or whose heirs cannot or will not protect the land;
- Own property that they no longer use;
- Own highly appreciated property, the sale of which would result in capital gains taxes;
- Have substantial real estate holdings and wish to reduce estate tax burdens;
- Would like to be relieved of the responsibility of managing and caring for land that they otherwise treasure;



*The Glen Leven home and farm in Nashville was left to The Land Trust as a bequest in 2006.*

An outright donation of land can have several benefits:

- It is a relatively simple transaction;
- It releases you from the responsibility of owning and managing the land;
- It provides substantial income tax deductions and estate tax benefits (while avoiding capital gains taxes that would result from selling the property);
- If the land has conservation value (see difference under non-conservation lands below), it will be permanently protected by The Land Trust for Tennessee.

### **Land We Accept**

#### Gift of Conservation Land

The Land Trust may accept the land donation, place restrictions on it in the form of a conservation easement, and resell it. Your land is then protected forever by the easement held by The Land Trust, and we use the proceeds from the sale to further our work. You can also donate a conservation easement and then donate your land to us at a later date.

#### Gift of Trade Land

Property without conservation value—like a commercial building, condo, urban property, or other structure --- can also be donated to The Land Trust. The Land Trust will sell or trade the property to help fund our conservation work. Under this scenario, you can take a charitable deduction for the full fair market value of the gift and avoid capital gains taxes that could have resulted from selling this land. Property does not have to be located in Tennessee – we accept gifts of 'trade lands' country-wide.

#### Donating a remainder interest (a.k.a., life estate)

You can donate land for conservation purposes but continue to live on it by donating a remainder interest in the property and retaining a reserved life estate. Under this scenario, you donate the property to The Land Trust during your lifetime, but reserve the right for yourself to continue to live on and use the property during your lifetime. When you die (or release your interests), The Land

Trust will assume full title to the property and either own and manage it or sell it to a conservation buyer. Under this option, you can continue to enjoy your land, but—because it is transferred during your lifetime, your gift can still qualify for the income tax deductions while still knowing that the land will be protected in perpetuity.

#### Donating land by will

You may prefer to continue to own and control your land during your lifetime, so transferring the land in your will may be the best option for you. Before writing the devise in your will, please meet with us to discuss your goals for the protection of the property. We can work with you and your advisors to create specifications for your will on how the property is to be used or managed in the future.

Placing the donation in your will rather than donating the land during your lifetime means that you receive no income tax benefits from your gift; however, removing the value of the property from your estate could significantly reduce estate taxes for your heirs. Another option for a double layer of protection (and potential benefit) is to donate a conservation easement during your lifetime and then donate the remainder interest in the land to The Land Trust in your will.

#### Tax Benefits for donations of land

*This is an overview of the potential tax benefits; however, we also strongly encourage you to consult with your CPA or tax advisor for current information and to discuss your specific tax situation.*

Under current tax law, most gifts of land can result in a Federal income tax deduction. The deduction amount for gifts of land is higher than an easement as you are donating the full value of the property (not just the development right. The amount that you can deduct in any one year is limited to 30% of your adjusted gross income. If the value of your gift exceeds this 30%, you can carry forward the excess for up to five additional years, applied each year up to the 30% limit. (Any remaining portion of the deduction left after 6 years cannot be used). In addition to possible income tax savings, a gift of land will also remove the value of the land from your overall estate, thus reducing future estate tax exposure.

Information adapted from *Conservation Options: A Landowner's Guide; The Land Trust Alliance*

*Please contact The Land Trust for Tennessee at 615-244-5263 for additional information.*



## *Landowner Questionnaire*

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Landowner Name: \_\_\_\_\_

Occupation: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

E-mail address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Property Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

\_\_\_\_\_

Property County: \_\_\_\_\_

Property Acreage: \_\_\_\_\_

Map and Parcel Numbers: \_\_\_\_\_

Date: \_\_\_\_\_

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(1) Briefly list the number and approximate size of existing buildings:

Principal residences:

Guest houses:

Nonresidential buildings – barns, garages, storage sheds, etc.

Other structures (tennis courts, swimming pools, gazebos, etc.)

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(1) Which values are important to you about your property?

- |   |   |
|---|---|
| <input type="checkbox"/> Place to live                | <input type="checkbox"/> Pass on to children        |
| <input type="checkbox"/> Place to visit               | <input type="checkbox"/> Preserve natural landscape |
| <input type="checkbox"/> Financial asset              | <input type="checkbox"/> Other: _____               |
| <input type="checkbox"/> Preserve historic structures |   |

(2) Why are you considering a conservation easement?

- |   |   |
|---|---|
| <input type="checkbox"/> Desire to keep the land open | <input type="checkbox"/> Desire to protect special land feature or wildlife |
| <input type="checkbox"/> Tax deduction                | <input type="checkbox"/> Avoid family conflicts about future uses           |
| <input type="checkbox"/> Estate planning              | <input type="checkbox"/> Other: _____                                       |

(3) How many years have you or your family lineage owned this property?

(4) Is this a time sensitive project? (if yes, please describe)

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(1) Which special features of the property are important to you to protect?

- |   |   |
|---|---|
| <input type="checkbox"/> working farm and family history    | <input type="checkbox"/> topographic or geological features |
| <input type="checkbox"/> past and current farming use       | <input type="checkbox"/> water (streams/lakes)              |
| <input type="checkbox"/> wildlife observation and resources | <input type="checkbox"/> other : _____                      |

(2) Are there any uses, or plans for, adjacent lands that especially concern you? (i.e. subdivisions, multifamily development, heavy commercial use, fences blocking wildlife, etc.)?

(3) Is your property currently divided? (Multiple lots, subdivision, etc.?) If so, please describe.

(4) Is the property part of a larger adjacent property owned by you or your family? If so, please describe.

(5) Do you own other land in the state of Tennessee? Describe.

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(1) Do you contemplate changing ownership in the future? If yes, why and in what way?

(2) Do you own timber rights? \_\_\_\_\_

(3) Do you own mineral rights? \_\_\_\_\_

(4) Is your property encumbered with any of the following?

\_\_\_\_covenants

\_\_\_\_ utility easements

\_\_\_\_ deed restrictions

\_\_\_\_ easements, other

\_\_\_\_ mortgage

\_\_\_\_ oil or gas leases

\_\_\_\_ road rights of way

\_\_\_\_ other: \_\_\_\_\_

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(1) Do you have any current or prior farming or land management experience? Explain.

(2) Do you have century or pioneer farm status?

(3) How did you hear about us?

(4) Please include any additional comments about your property that you wish to share with us.

Signature: \_\_\_\_\_

Completed by: \_\_\_\_\_

Date: \_\_\_\_\_

Please return to: The Land Trust for Tennessee

PO Box 41027

Nashville, TN 37204

Email: [info@landtrusttn.org](mailto:info@landtrusttn.org)