

Working Forest Conservation Easement

Issue: Development pressure on private forestland

In Vilas County, the price of privately owned forestland has been rapidly increasing, as has forestland in other northern Wisconsin counties. For the past ten years or so, developers have been purchasing large tracts of land and then subdividing them into 40 acre parcels which sell for up to \$125,000. The increase in land value stems in part from the rising demand for second homes that are located close to state forestland, which is undeveloped and will likely remain so.¹

One private forestland owner, named Ed Drager, had been approached by developers several times a year during the late 1990s. His 360 acre parcel which he and his sister had inherited from their father was in a family trust, but he worried about what the heirs would do with the land since they had no knowledge or interest in forests and land management, and did not live nearby. Ed is a steward of the family land, actively managing the parcel and regularly updating its management plan. He wanted to fulfill his father's wish that this land would always be able to be used for hunting, fishing, and timber harvesting, without being subdivided and developed.

Ed and his sister considered numerous strategies to conserve their forestland such as donating the property to UW-Madison, which they were alumni of. But this would take away the rights of the heirs to use the property forever. Gathering Waters Conservancy, the primary land trust support organization in Wisconsin, was not accepting easements and The Nature Conservancy was not accepting conservation easements that included timber harvests at that time.

Vilas County is rural and 77% forested. About 44% of its forested lands are privately owned.



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Pond on Ed Drager's 360 acre parcel of managed forest

Approach: landowner donates a working forest conservation easement to a non-profit organization

Ed talked to [Trees for Tomorrow](#) (TFT) which was suggested by The Nature Conservancy. He and TFT decided to put a working forest conservation easement on his property that would be held by Trees for Tomorrow. A working forest conservation easement would help the land to continue to be managed and selectively cut in perpetuity, fulfilling their father's view that the property should look about the same 100 years from now as it does now.

The easement was the first and only working forest easement TFT has done. Ed's costs for donating the easement were limited because he is an attorney and wrote the easement himself. Other expenses for donating conservation easements can include survey costs, biological assessments, and other baseline documentation work, financial advice, and appraisals. Local land trusts may also request a contribution to an endowment fund to ensure they can annually monitor and legally defend the easement in perpetuity. Land trusts however may be able to raise funds to cover some of the expenses of donating an easement.

When a land trust or other non-profit 501(c)(3) organization like TFT receives an easement, the property and the easement are appraised. The property is appraised according to fair market value; the value of the easement is determined by the difference between the fair market value of the property before and after the easement. The value of the easement is considered a charitable contribution which the person who donates the easement may deduct from his or her adjusted gross income (up to 30%) in the year given and for five years after. A conservation easement can also reduce the value of the property for estate tax purposes. Estate taxes can be an important consideration for many families with larger tracts of forestland that are rapidly appreciating in value.

Reflections on Donating a Working Forest Conservation Easement

Strengths

A conservation easement can protect the land in perpetuity, according to the conditions in the easement. While an easement may require a forest management plan, you define if, when and where timber will be cut. Conservation easements can also work compatibly with Managed Forest Law contracts for forestland owners who are seeking property tax relief. Furthermore the property owner still owns the land and can sell it or pass it on to heirs.

Conservation easements are flexible tools and can be written to the needs of a property owner. When this easement was written, they allowed for the niece and nephew to build up to two additional homes up to 2000 square feet each, but they must be located at least 200 feet back from the lake or stream.

The parcel is available for educational projects by UW-Forestry, Conserve School, and TFT. Also, this easement provides that TFT gets 50% of any timber sales; the first year in the easement TFT received \$14,000.

“I think they are an absolutely wonderful tool for people who would like to see something preserved”.

– Ed Drager

Weaknesses

In the late 1990s after speaking to a couple of non-profit organizations and a couple of attorneys who write conservation easements, Ed found that establishing a conservation easement could be very unnecessarily difficult for people. He also found that many attorneys were uninformed about what a working forest conservation easement actually means.

Ed has not yet seen a reduction in real estate taxes on this Vilas County parcel. By state law, conservation easements are supposed to be considered by assessors in determining property tax rates. The local assessor thought the land was still worth a lot with the easement even though TFT holds the development rights and half of the timber value, and the property is unable to be subdivided.

Future

Ed’s property will continue to be managed according to the conservation easement, with regular updates of management goals. Trees for Tomorrow will monitor different treatment plots. The property may even be an island of forest 100 years from now; this would please his father who didn’t know about conservation easements when he was alive or he probably would have done one.

Since the establishment of Ed’s easement, more land trusts have formed; they and conservation organizations have improved resources for prospective working forest conservation easement donors. The Northwoods Land Trust in Vilas, Oneida, Forest, Florence, Iron and Price Counties promotes private conservation of working forestland, shorelands, woodlands, and wetlands. They will help landowners decide if a conservation easement is the right tool for conserving their lands.

The irregularity in property tax assessments is under examination by [Gathering Waters Conservancy](#) which hopes to influence more uniform effects of conservation easements on property taxes.

Summary

Working forest conservation easements can also be purchased by the easement holder; in this case the property owner would not be able to deduct the easement value.

For property owners who definitely want to keep a parcel forested and actively managed but still want to own their property, donating a working forest conservation easement is a very effective tool.

This case study was written by Bobbie Webster & Bryan Pierce

For more information

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