

## What are the responsibilities of the holder of your Conservation Easement?

Whether the easement holder is a public or non-profit organization, the holder has the responsibility to enforce the requirements spelled out in the easement. This responsibility generally includes:

- ◆ Ensuring that the language of the easement is clear and legally enforceable before it is signed and preparing a "baseline documentation report", which is a report on property that identifies and establishes for a permanent record the presence of on-site natural or cultural resources and their conservation significance. The report usually consists of maps, descriptions and documentation of the property's characteristics.
- ◆ Monitoring the use of the land on a regular basis. This may require personal visits to the property and discussions with the landowner to provide advice, and to ensure that easement restrictions are being upheld.
- ◆ Providing information and background data regarding the easement to new or prospective owners of the conserved property.
- ◆ Conservation easements often require the holder's approval for certain activities identified in the easement (such as new buildings), so the holder must establish a review and approval process for those activities described in easement.
- ◆ Enforcing the restrictions of the easement through the legal system.

## ENSURING, PROTECTING, AND PRESERVING THE LAND

There are many reasons why people choose to protect their land through easements. Some have worked hard on their land and want to leave a legacy of farmland, open space or natural areas for their children and their community. Some want to ensure that future owners don't undo what they have worked to establish. Some are attracted by the potential for income, estate, and/or property tax benefits. Whatever the reasons, it is essential to plan now to protect land forever.

Conservation easements are an effective means of conserving property while maintaining private ownership. The terms of easements are flexible and each one is unique. They are written to carry out each landowner's wishes for the future of his or her property.

*The mission of the Black Family Land Trust is to ensure, protect, and preserve the natural, historic, environmental, and community resources of African Americans in the United States of America through land ownership.*

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Serving Alabama, Georgia, Mississippi, North Carolina,  
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**Black Family Land Trust**

Ensuring,  
Protecting,  
Preserving

## Conservation Easements



A *Conservation Easement* is a voluntary legal agreement used by landowners to protect the natural, cultural, scenic and productive resources of a piece of land. The landowner retains ownership of the land. Easements are flexible and tailored to meet each landowner's needs. The easement specifically explains all of the ways in which the owner may continue to use the land. These normally include agriculture, forestry, recreation, and other open space uses. The easement limits or completely restricts certain activities, including industrial, commercial, and residential development. An easement may cover portions of a property or the entire parcel of land. The right to enforce

the restrictions are granted to a non-profit conservation organization (such as the Black Family Land Trust) or a government agency involved in park or natural area protection.



Site of significant historic, cultural, and natural resources.

Property of Ellen Byrd Furman, Al

Conservation easements are tailored to the particular natural characteristics of the land. First, a complete inventory is taken of all the natural features and traits. That inventory includes maps, photographs of existing improvements, species living on the land, etc. By identifying sensitive areas, land use patterns, and any areas where limited development may be allowed, the inventory provides the framework for writing the easement.

The goal of most conservation easements is to make sure that the current uses of a landowner

### ***How Long Do Conservation Easements Last?***

Most conservation easements are permanent, meaning that the easement continues with the title of the property forever. A property under conservation easement may be sold or inherited, but future owners of the land must follow the terms of the easement.

Landowners who donate conservation easements are interested in preserving special features of their property, such as wildlife, undeveloped land, natural scenery, or land with historic or cultural significance. Easement donors may also be concerned about maintaining the economic sustainability of their land in the face of increasing tax burdens. Finally, many donors wish to prevent the property from being developed or subdivided in the future.

### ***Why Use a Conservation Easement?***

Conservation easements offer several advantages to landowners:

- ◆ They leave the property in private ownership. Owners may continue to live on the land, may sell it, or leave it to their heirs.
- ◆ Most management decisions that usually fall to landowners continue to do so; for example the decision whether to allow hunting, farming, forestry, and public access.
- ◆ Easements can reduce income and estate taxes. A conservation easement gift is considered a charitable donation and may provide an income tax deduction. In restricting the overall value of the land through a conservation easement, the landowner also reduces the total value of his or her estate. For some, this can make the difference between having the land sold to pay estate taxes and being able to leave the property to children.
- ◆ Easements are flexible and easily tailored to a family's needs. Conservation easements can be

written to reflect the vision of each landowner, as well as the unique features of the land.

- ◆ Easements are normally permanent. Conservation easements remain in force even after the land changes hands. Unlike deed restrictions, a conservation easement is forever upheld by BFLT as an interested party whose goal is to protect the easement.



Kannapolis, NC—Property of Prosperity Unlimited, Inc. Conservation expert helps the landowner decide which features need conservation and preservation. Potential site of Conservation Easement for the Black Family Land Trust

- ◆ The donation of a conservation easement normally qualifies as a charitable contribution, which may entitle the donor to a charitable income tax deduction for the easement's value. The value of this type of charitable gift is determined by a qualified real estate appraiser based on "before" and "after" appraisals—the first assessing the land's value before the conservation easement is in place, the second assessing its value afterwards. The difference between the two appraisals is considered the value of the conservation easement. In some cases, this can be a significant incentive for land preservation.