

A Personal Story

By Doug Albaugh

Five miles down the Muskingum River from Stockport, on Route 266, is a thirty-acre piece of property lying just below Luke Chute dam. I think it's a very special place. I'm biased, no doubt, because it's my home, but I think you might agree that this land has some features that set it apart. I have a beautiful view of the river and dam. The property includes an island in the river, and has a fascinating history as a former Boy Scout camp. There are fields on three levels – floodplain and two higher benches, separated by wooded hillsides, and there is a great variety of trees, wildflowers, birds, and other wildlife.

In the twelve years since I moved back here, to the place where I grew up, I've given a lot of thought to my responsibility as a landowner, and what will happen to this land after I'm gone. Everywhere I've lived, I've seen the continual conversion of once-rural land into residential lots and businesses. When I was a kid, there were long stretches of undeveloped river frontage along the Muskingum. Now there is not much river frontage left in anything approaching its natural condition.

It troubled me to think that my property might someday be carved up and sold as lots, or commercially developed. A wonderful place like this should be preserved intact for future generations to enjoy. I have no son or daughter to whom to leave the property, but even if I had, I would have had the same troubling concerns. The younger generations often don't, or can't, follow the wishes of the older generation.

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I found a solution in something called a conservation easement. In my easement, the main provisions are that the property cannot be divided or commercially developed. I've included various other provisions to suite my personal preferences – for example, clear-cutting of forest is prohibited, but cutting firewood is permitted. In 2005, I donated the easement to the Friends of Lower Muskingum River, an IRS-approved 501(c)(3) land trust organization. The place is still my private property, just like before, to use as I like – except that I and all future owners must obey the restrictions in the easement.

My conservation easement gives me considerable peace of mind. Choice pieces of undeveloped real estate, especially along scenic rivers, are becoming rare. Some of those yet remaining should be protected from the insatiable appetite of "progress" and saved for protection of the riparian environment and for the enjoyment of future generations.

Another possible incentive for placing a conservation easement on your property is tax benefits. I've chosen not to pursue this myself, but with sufficient documentation, and with careful attention to all federal and state tax laws, the value of the easement is tax-deductible as a charitable donation.

Land trusts and the use of conservation easements are the fastest growing arm of the conservation movement today. If you are interested in this important conservation and estate-planning tool, Friends of Lower Muskingum River can answer questions and suggest some good sources of information.

Rev. 01/2007

Preservation of Private Lands:

A Conservation Easement is a Voluntary Land Protection Agreement



Friends of Lower Muskingum River, Inc.

A Local Land Trust

www.muskingumriver.org

Preservation of Private Lands

Landowners increasingly are looking for methods of controlling or limiting what may happen to their land after they are gone. Their concern may be due to uncertainty about the interests and priorities of their heirs, or they may not have any direct heirs. Even in rural southeastern Ohio, subdivision and development are happening at an accelerating rate – often without regard for preserving natural, scenic, or historic features. Voluntary land preservation agreements, called conservation easements, provide the landowner a means of permanently protecting the features of his land that are important to him, while allowing him to retain ownership.

What is a Conservation Easement?

- ◆ A conservation easement is a deed restriction on a piece of property limiting certain specified uses forever. The property may be sold or given away, but the easement follows the property and remains in effect.
- ◆ Examples of lands protected under conservation easements include: natural habitat for wildlife, lakeshores, rivers, streams, scenic landscapes, farm land and land that has local, cultural or historical significance.
- ◆ Each conservation easement is a unique document, individualized to suit the desires of the property owner to protect the piece of land involved.
- ◆ Examples of uses often restricted by conservation easements include subdivision, commercial development, timber harvesting, and construction. However, agricultural and forestry activities can be allowed – depending on the wishes of the landowner creating the easement.

How does it work?

- ◆ The landowner decides what land uses are to be restricted or prohibited, and what permitted.
- ◆ The landowner works with a land trust organization to prepare a conservation easement document.
- ◆ The landowner has the document reviewed by an attorney, and recorded at the county recorder's office.

The Donor

- ◆ The landowner is called the “donor” or “grantor” because he gives the easement to a land trust organization. The landowner still owns the land, and can use it in any way that is not prohibited by the easement.
- ◆ The conservation easement does not excuse the donor from responsibilities such as property tax or other legal requirements.
- ◆ If the property has a mortgage on it when a conservation easement is given to a land trust, the lender must sign off.

A Land Trust as Easement Holder

- ◆ Holders of conservation easements are typically land trusts, other qualified non-profit organizations, or in some cases, local government agencies.
- ◆ A land trust is an IRS-qualified 501(c)(3) non-profit organization whose purpose is preserving land for its natural, historic, cultural, recreational or productive value, to ensure that it will continue to be a resource for future generations.
- ◆ As holder of conservation easements and/or donated land, a land trust takes on the

responsibility of defending the conservation easements and protecting the land.

- ◆ A land trust is an important tool for private land owners who want to be stewards of the land, who appreciate the value of natural areas and who want to leave an enduring legacy.
- ◆ Your land preservation agreement is secure in the hands of a local land trust. Should a land trust become defunct, federal regulations require that its assets go to another land trust with the same conservation mission.

Why protect your land with a conservation easement?

- ◆ Conservation easements allow property owners to provide permanent protection for the natural features of their property that they value, while retaining ownership of the land.
- ◆ Conservation easements ensure preservation of natural areas, providing habitat for plants and animals, corridors for movement of wildlife, reduction of waterway pollution, and enjoyment for our future generations.
- ◆ Conservation easements can potentially lower property tax assessments and reduce federal income tax and estate tax.

Friends of Lower Muskingum River, Inc.

is a 501(c)(3) tax exempt non-profit conservation organization, and a land trust.

For more information contact Marilyn Ortt at 740-373-3372, Quincy Robe at 740-962-6511, Doug Albaugh at 740-984-8201 or contact an attorney who specializes in land preservation agreements.