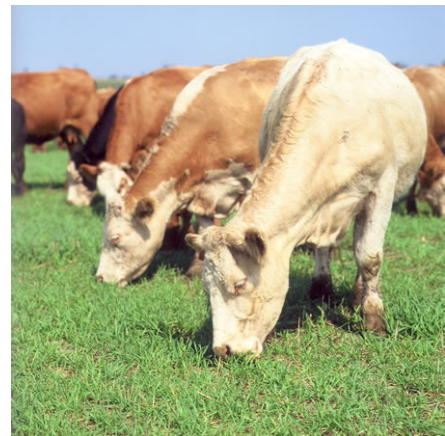




# AGRICULTURAL CONSERVATION EASEMENTS



OTSEGO COUNTY PLANNING DEPARTMENT



## REASONS FARMERS CONSERVE THEIR FARMS

- Protect the land/farm for future generations
- Transfer the farm to a family member
- Reduce long-term debt
- Expand / modernize the farm operation
- Facilitate selling the farm to a non-family member

## FUNDING

New York State, through the Department of Agriculture and Markets' Farmland Protection Program, offers grants for up to 75% of the value of the conservation easement on selected farms. In 2006, the state-wide program awarded \$21.5 million to protect 9,346 acres of active farmland on 22 farms throughout New York State, including one farm located in both Otsego and Herkimer counties.

## WHAT IS A CONSERVATION EASEMENT?

To understand conservation easements there must first be an understanding of the rights of ownership of a property. The rights of property owners can be as simple as the right to drive across the property, run a utility line, and build structures or a number of other possible uses for the property. The owner may restrict, sell or lease some of those rights. For example, an owner may sell or lease the right to run a power line across their property to a utility company.

Development rights are the rights to subdivide or develop the property into houses, commercial buildings or other projects which could change the nature of the property.

A *Conservation Easement* restricts certain development rights of a property which are spelled out in the easement documents. When a conservation easement is placed on a property, land can no longer be subdivided or developed contrary to the stipulations in the easement. By placing an easement on the land, the owner is assured that it will remain forever open. All conservation easements exist in perpetuity; the land can be bought and sold but the easement applies to all future owners.

Agricultural Conservation Easements must remain flexible in order for the farm to remain productive. Barns, silos, outbuildings, and homes are necessary to run an agricultural business and may not be restricted depending on the specifics of the easement. It is important to allow the farmer to be able to adapt as farming practices change. The easement does not have to apply to the whole property. Portions of the property can remain unrestricted.



## WORKING WITH A LAND TRUST: PARTNERSHIP IN AN EASEMENT

A conservation easement is typically held by a municipality or a land trust. By placing an easement on the property the landowner agrees to a partnership with the party holding the easement. It is the responsibility of both parties to make sure the stipulations of the easement are upheld.

The land trust is responsible for monitoring the property and making sure that the terms of the easement are being followed. If a landowner agrees to a conservation easement, it is filed at the County Clerk's Office and becomes part of the public record so anyone wishing to purchase the property can view the restrictions.

Because of the long-term relationship between the landowner and land trust (easements are legally timeless), landowners should become familiar with the land trust when entering negotiations so that both sides are acquainted with future property goals. It is also important to contact a financial/legal advisor so that the landowner is fully aware of the meaning of the restrictions that are stipulated in the easement. There are many possible financial outcomes from putting a conservation easement on a property. The advisor can also help the landowner understand all financial ramifications before finalizing an easement.



## WHAT IS THE VALUE OF THE EASEMENT?

In order to calculate the value of a conservation easement, the development rights must be appraised by a licensed appraiser. The property is first valued at its highest market value (without an easement). Then the property is valued with the conservation easement in place, which is always lower than without an easement. These values can be determined by comparing the sales of neighboring farms with or without easements. The value of the conservation easement is the difference between the high and low value of the land.

Once the value of an easement has been appraised, the landowner has two options: they can donate or sell the easement. If a landowner decides to donate the easement, the donation can be considered a charitable gift and deducted from federal and state income taxes. Some farm owners may be eligible for a New York State Farmland Protection Grant to purchase the development rights on their land. New York State, through the Department of Agriculture and Markets, offers grants to pay up to 75% of the value of the conservation easement on selected farms.

### *Example:*

Suppose the Miller Farm has an unrestricted market value of \$500,000. However, with a conservation easement limiting its use to agriculture, forestry, and open spaces, it is independently appraised to be worth \$300,000. The difference, \$200,000, is the value of the conservation easement.

Unrestricted Fair Market Value:	\$500,000
Restricted Farm Value:	<u>\$300,000</u>
Conservation Easement Value:	<u>\$200,000</u>
Potential NYS Farmland Protection Grant:	\$150,000

In 2006, New York enacted a new conservation property tax credit. Owners of land protected by conservation easements may qualify for a 25% property tax credit on their school, county and town real estate taxes up to \$5,000. Conservation easements may also reduce estate tax burdens when passing the property on to heirs.

## COMMON MISCONCEPTIONS ABOUT CONSERVATION EASEMENTS

**The land trust owns the land** *False:* The landowner continues to own the land

**The land will be opened to the public.** *False:* The standard farm easement does not require public access. Occasionally, public access for trails and fishing sites, for example, can be part of a project.

**The land will be taken off the tax rolls.** *False:* The landowner will continue to pay property taxes on the restricted (conserved) value of the farm.

**Land trusts are government agencies.** *False:* Land trusts are non-profit organizations.

## HOW TO GET STARTED

To qualify for consideration for the Farmland Protection Grant, a farm owner must answer the following questions with either “YES” or “Not Applicable”:

1. Is the property or set of properties in an Otsego County Agricultural District or is the owner in the process of applying for inclusion in an Agricultural District?
2. Does the property have at least 50% USDA Prime Soils?
3. Does the property have a Soil Conservation and Water Quality Plan, Forest Management Plan, Nutrient Management Plan?
4. Does any local zoning within any of the property or set of properties allow for commercial or industrial development?
5. Are there physical characteristics of the property or set of properties (slopes, soils, wetlands or drainage) that restrict residential, commercial or industrial development?
6. Is the property or set of properties free of restrictive easement?
7. Is the property or set of properties larger than 100 acres in size? Or – is the property or set of properties contiguous to permanently preserved parcels?
8. Is the property in good standing with local tax authorities (i.e. Village, Town, County, or School)?



If you answered “YES” or “Not Applicable” to all the above questions, contact the Otsego County Planning Department or Otsego Land Trust listed on the front of this brochure for a pre-application. If your farm is selected, we will help you develop a full application for the New York State Farmland Protection Grant program.

**“Easements can be a powerful tool for generating cash and saving the farm”**

*– Living on Easement Street, by Steve Werblow  
The Furrow, March 2007 cover story*

### **CONTACTS**

For questions regarding conservation easements and the NYS Farmland Protection Program:

**Otsego Land Trust**

[www.otsegolandtrust.org](http://www.otsegolandtrust.org)  
PO Box 173  
Cooperstown, NY 13326  
(607) 547-2366

**Otsego County Planning Department**

[www.otsegocounty.com/depts/pln](http://www.otsegocounty.com/depts/pln)  
197 Main St  
Cooperstown, NY 13326  
(607) 547-4225

For questions regarding prime soils and Soil Conservation and Water Quality Plans, Forest Management Plans, and Nutrient Management Plans:

**Otsego County Soil and Water Conservation District**

967 County HWY 33  
Cooperstown, NY 13326  
(607) 547-8337

### **FOR MORE INFORMATION**

**Conservation Easement – What is it and what does it mean?**

[www.farmlandinfo.org](http://www.farmlandinfo.org)  
[www.lta.org](http://www.lta.org)  
[http://www.vlt.org/Farmland\\_How\\_to\\_Conserve.pdf](http://www.vlt.org/Farmland_How_to_Conserve.pdf)  
[www.mtlandreliance.org/faq.htm](http://www.mtlandreliance.org/faq.htm)

**Farmland Protection Programs (NYS and others)**

<http://www.agmkt.state.ny.us/AP/FarmlandProtection.html>  
<http://www.farmland.org/programs/protection/default.asp>

**Landowner Satisfaction**

[www.vlt.org/aft.html](http://www.vlt.org/aft.html) Vermont Study– the Impact of VT’s Farmland Conservation Program on Program Participants

**Business & Retirement Planning**

[www.ohioline.osu.edu/cd-fact/1101.html](http://www.ohioline.osu.edu/cd-fact/1101.html)  
[www.ohioline.osu.edu/b862/index.html](http://www.ohioline.osu.edu/b862/index.html)

**Financial/Legal**

[www.mtlandreliance.org/tax.htm](http://www.mtlandreliance.org/tax.htm)  
[www.cei.org/pdf/1339.pdf](http://www.cei.org/pdf/1339.pdf)

6/14/07