



## HOW DOES THE ESSEX LAND TRUST ACQUIRE LAND?

Donating land for conservation is one of the finest legacies a person can leave for future generations. The Essex Land Trust, as a 501 (c)(3) organization, is a qualified recipient of conservation land donations and easements. Options for permanently protecting land range from an outright donation of land to a blend of conservation measures. Many of these measures may provide the landowner with significant tax benefits, including:

- Deductions to federal and state income taxes in the year of the gift or later years
- Reduction in the size of the taxable estate
- Relief from local real estate taxes

Here are some of the most popular conservation options available to landowners. These options may be applied to all or to part of a property.

**Land Donation.** The land is given over to the Land Trust. The Land Trust takes title to the property, assuming full ownership and future care of the property. The donor may be entitled to a charitable contribution for income tax purposes equal to the fair market value of the gifted land as determined by an independent qualified appraiser retained by the landowner. Such a gift may also reduce the value of the landowner's taxable estate by excluding it from the estate's assets.

**Bargain Sale.** The Land Trust may buy land at less than fair market value. The difference between the bargain sale price and the fair market value is a charitable contribution. Thus, this is part gift and part sale. The seller realizes a combination of a tax savings and a return on a portion of the equity in the land.

**Conservation Easement.** Ownership of the land is not transferred to the Land Trust, but the conservation easement imposes permanent restrictions on the future use of the land. For example, an easement can require that property remain forever in its natural state or in agriculture. As ownership changes, the land remains subject to the restrictions of the easement. A charitable contribution may be allowed equal to the difference between the fair market value of the land before and after the easement. An easement may also reduce the value of land within the landowner's estate as well as property taxes.

**Testamentary/Trust Gifts.** Gifts of land and conservation easements can be made to the Land Trust by Last Will and Testament or through trust funds. While testamentary gifts do not result in a charitable contribution for income tax purposes, they can dramatically reduce the estate tax liability faced by the next generation and also guarantee that the property is maintained as the donor requests. Codicils to a will can be an effective interim measure to protect land while planning is underway, but you should check with your lawyer. To ensure that the Land Trust understands your wishes for the land and that it is appropriate for preservation or some other use, we ask that you contact us during the planning process.

**Fair Market Purchase.** Sometimes the Land Trust buys land or conservation easements at fair market value. This depends on the property and its conservation value, and whether funds are available. In most instances, such purchases are dependent upon the ability of the Land Trust to raise the necessary funds from the community at large or from grants, which are not always available. In other instances, the Land Trust may negotiate a purchase in conjunction with a governmental development rights or open space program.

**Limited Development.** The high value of real estate in Essex may put some parcels beyond acquisition by the Land Trust. Also, town regulations may allow development of a larger piece of land into smaller lots than otherwise applicable, if part of the land is set aside as open space. As a result, we may help to prepare conservation plans for parcels that identify areas to be protected, as well as marginal land that can be developed or sold to pay for the acquisition and management of the preserve areas. Such "limited development" plans enable us to implement alternatives to outright development under existing subdivision regulations.

### **IMPORTANT CONSIDERATIONS**

Because the effect of tax laws depends on each person's unique tax position, it is important that potential donors obtain tax advice from a qualified professional before considering their options. The Land Trust does not provide tax or legal advice to donors nor make any assurances as to the tax ramifications of a potential donation. Donors must rely on their own legal and other professional advice and are solely responsible for taking all steps in compliance with applicable tax law and regulations in order to realize tax benefits. The donor is responsible for determining the value of the donation.

The Internal Revenue Code requires a qualified appraisal for gifts of property valued at more than \$5,000. The value of a donation or a bargain sale is based on an appraisal of the land or conservation interest being donated, done by a qualified appraiser who follows USPAP, and including information on the timing of the appraisal (not earlier than 60 days prior to the date of the contribution and before the due date of the tax return on which the deduction will be first claimed). The Land Trust will require a copy of the completed appraisal.

The Land Trust will not knowingly participate in a project where it has significant concerns about the tax deduction.

*Please contact [essexlandtrust@comcast.net](mailto:essexlandtrust@comcast.net) to arrange a confidential discussion about ways you can permanently protect your property.*