

# Unpacking Conservation Easements

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In recent years, land use conservation easements (CE) have become more widely utilized across the country. But what are they and how do they work? As with many other land-use tools, there are many variations. There are two primary models. The first restricts development near urban areas and the second is to restore agricultural lands susceptible to floods, and other hydric issues, back to a native state.

A conservation easement is a recorded use agreement between a property owner and a government unit, charitable organization, or another party (easement holder). The property owner conveys certain rights to be enforced by the easement holder. Most easements are recorded into perpetuity. Although the easement is voluntary, the agreement between the original landowner/property owner and the easement holder binds the current and future owners to abide by the terms.

How do easements work? CE's take away one of the property rights or in other words "restricts a certain use" of the property. For example, in urban areas, the predominant type of CE restricts development but permits agricultural, recreational, and other uses. A second common use of CE's is growing in rural areas. Agricultural tracts that often were carved out from natural areas along rivers or other low-lying areas which are susceptible to floods due to heavy rains or snow melts are being returned to their natural state via CE's that restrict agricultural uses and allow recreational uses.

Compensation for CE's can come either through direct cash payment for loss of property value due to restrictions or through a charitable donation. In either case, the compensation is based upon a loss of value through an approved valuation model. The fulcrum for which the loss-of-value balances on is a market-supported change in "highest and best use" (HBU) of the property. For example, in an urban area where land

prices for a building tract are \$10,000/acre and cropland are \$4,000/acre, the CE changes the HBU from development to agricultural use and the market recognizes a change or loss in value. The owner is compensated for that loss. The same phenomenon occurs in rural properties where the HBU of agricultural tracts are being restricted to recreational uses and a loss of use and value occurs.

The challenge for the appraiser is to prove and support from the market that the CE not only takes away a use but also value. For example, if an easement restricts “polar bear hunting” in Iowa, it has taken away a use, but not value due to the absence of polar bears in Iowa. A more common practical example would be restricting development on a tract of rural land that is primarily low, wet, and/or swampy without a suitable building site. Not only is there limited development potential in the area, but the building would also not likely be physically possible.

Conservation easements can be entered into with local, regional, and national organizations. For more information or questions, please contact:

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