

## STEPS TO DONATING A CONSERVATION EASEMENT



What follows is a brief outline of the steps involved with donating a conservation easement. We have found it helpful to inform landowners ahead of time about the conservation easement process so they know what to expect and can ask any questions they may have about the process.

- **Introduction of Land Protection Specialist and Landowner**  
This is an opportunity for landowners to share with the Land Protection Staff their goals, needs and interests regarding their property. Staff will explain the role of the Leelanau Conservancy and how conservation easements work.
- **Property Visit**  
Visiting the property first hand is very important. This helps the Land Protection Specialists become familiar with the different features of the property and identify the conservation values.
- **Determination of Conservation Easement meeting Tax Deductibility**  
There are certain criteria a project must meet to ensure the property meets the IRS requirements for an income tax deduction. Conservancy staff evaluates these criteria to determine if the project is eligible for an IRS tax deduction and whether or not the project meets the Conservancy's land protection criteria.
- **Draft initial documents and begin negotiations**  
Conservancy staff-person prepares the first draft of the conservation easement document for discussion with landowner and their legal counsel. This can require a significant amount of time depending on the complexity of an easement. The Conservancy staff is in frequent contact with landowners, or their representative, in order to create a mutually acceptable easement document.
- **Review by Stewardship Staff and Land Protection Committee**  
All potential conservation easement projects are discussed with our Stewardship staff, which is an integral part of the process. The project is also brought to the Land Protection Committee which generally meets every other month.
- **Leelanau Conservancy Board Approval**  
Once a project is recommended by the land protection committee, it is brought to the Conservancy's Board Directors for discussion and approval. The timing depends on next scheduled meeting which is generally every other month.



- **Commission “before-and-after” Appraisal**  
For most projects, a before and after appraisal is required, to determine the value of the development rights to be extinguished. The appraisal report is commissioned and paid for by the landowners in most cases. The final report must also be reviewed and approved by Conservancy staff-person (as per IRS rules)
- **Obtain Land Survey** (If necessary)  
Often a survey will be needed to correctly determine the boundaries of the conservation easement.
- **Order Title Work** (can be done concurrently with the appraisal)  
The title works identifies any other easements or deed restrictions associated with the property. Depending on the results of the title report, it might be necessary to address certain issues such as existing mortgages, utility corridors or access easements.
- **Complete Baseline Report**  
The Baseline Report documents the condition of the property at the time the easement is signed and is required for all conservation easements. The Conservancy staff produces these reports in house. IRS rules mandate that they be completed by the time the easement is signed. (NOTE: an “Interim Baseline Report” can be completed on or before closing if necessary)
- **Signing of Final Conservation Easement**  
This can be done via mail or in person as long as all signatures are notarized.
- **Stewardship Donation**  
The Conservancy is obligated to monitor and enforce the conservation easement terms in perpetuity. Therefore, we ask conservation easement donors to assist with the cost of monitoring and enforcing the terms. The amount of these contributions varies depending on the complexity of the conservation easement terms and is often tax deductible. Conservation Legacy Agreements are another tool for a landowner to contribute to the long term stewardship of their property.
- **Recording of the Conservation Easement**  
The signed conservation easement documents are recorded at the county courthouse. The original is then returned to the Leelanau Conservancy and a copy is sent to the landowner with the baseline documentation report.
- **Gift Substantiation Letter and IRS Form 8283**  
In order to qualify for IRS tax incentives under IRC 170(h), the Conservancy must provide the landowner with a gift substantiation letter. The Conservancy and the appraiser are also required to review and sign the 8283 tax form.