CONSERVATION EASEMENTS – A ONE-PAGE PRIMER

Leelanau Conservancy

Conservation Easements in General
- Promotes private conservation in Leelanau County to permanently protect:
    - Scenic beauty
    - Rural character
    - Ecological protection
    - Economic, cultural & environmental benefits
        - Enhances tourism, agri-tourism, tax base
        - Helps maintains cultural identity and quality of life
        - Provides environmental protection

What is a Conservation Easement?
- Existed in various forms in many states since 1800s
- 1976: CEs were codified by Internal Revenue Code to incentivize private land conservation (in contrast to government expenditures)
- Legal agreement—a recorded deed—between a landowner and the Conservancy
    - Requires permanent protection of specific conservation resource(s) of the property (terms are flexible; future owners are bound)
    - Requires the Conservancy to have the resources (human, financial) to enforce the terms in perpetuity

What *Aren't* Conservation Easements?
- Do *not* create public parks—land remains private; no public access required
- Do *not* take property off the tax rolls
- Are *not* transfers of property rights to the Conservancy
    - Conservancy does *not* hold development rights
        - Development rights are *extinguished*
        - Development rights *cannot* be sold or transferred later
        - Conservancy has the legal *obligation* to enforce terms in perpetuity

How Do Conservation Easements Incentivize Private Conservation?
- Federal tax deduction
    - Donation or part-donation of a conservation easement
        - "Before & After" valuation (by qualified independent appraisal)
        - Prior to 2007:
            - Deduction of up to 30% of AGI
            - 5-year carry forward
        - In 2007:
            - Deduction of the value up to 50% of AGI
            - 15-year carry-forward
- Michigan property tax benefit
    - Property taxes remain "capped" (Michigan only)
    - Unanimous vote in 2006; public policy supports private conservation and maintenance of the local tax base