

## **Baldwin, Callen & Ransom, PLLC**

### **Articles**

#### **What Is A Conservation Easement?**

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To state it simply, a conservation easement is a legal agreement between a landowner and a qualified organization such as federal government agency, municipality, conservation commission, or nonprofit land trust. A conservation easement is basically a restriction that the owner chooses to place on land “that prohibits or requires a limitation upon, or an obligation to perform certain acts with respect to uses of a land or water area.” RSA 477:5. The intent of the parties to a conservation easement is to preserve land for conservation purposes, “predominantly in its natural, scenic, or open condition, or in agricultural, farming, open space or forest use, or in any other use or condition consistent with the protection of environmental quality.” *Id.* The landowner retains his or her ownership of the land, but is able to restrict the use of the land via the easement. Private property subject to a conservation easement remains privately owned, and landowners often continue to live on the property, and some private land uses can continue under the terms of the easement, such as timber harvesting and farming.

Conservation Easements are enforced by the grantee organization which will monitor easement protected land. Enforcement procedures should be outlined in the easement document. Easements are often donated, but can be also be sold for full or partial value which would be determined by a qualified appraisal. Land protected by easement can still be sold or transferred by the landowner, however the easement will “run with the land” and will continue to be enforceable.

There are many reasons why landowners enter into conservation easements. One landowner may want to protect and preserve the natural environment and be sure that it is protected beyond their lifetime. Another landowner may want to benefit from charitable tax deductions and reduced property taxes. Other landowners will use conservation easements as part of their overall estate planning strategy.

Conservation restrictions are “interests in real estate” and a document creating such a restriction is deemed a conveyance and must be recorded at the Registry of Deeds.