Conservation Easements In Alberta

Latest Policy and Tools

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WHAT IS A CONSERVATION EASEMENT?

- A contractual arrangement between a landowner and a qualified organization through which the landowner grants certain rights to the qualified organization.

- Registered **on land title**

- Runs with the land regardless of owner

- List of restrictions; may include property management principles.
What is a Conservation Easement?

Land Ownership = “Bundle” of Rights

... or opportunities
What is a Conservation Easement?

- Cultivate
- Irrigate
- Graze
- Build
- Harvest Trees
- Sub-divide

Qualified Org
What is a Conservation Easement?

Cultivate
Irrigate
Graze
Harvest Trees

Qualified Org

Sub-divide
Build
How are CE’s enabled?

- Originally in Environmental Protection and Enhancement Act (AEPEA) in 1995
- Transferred to ALSA October 2009
- Actively used in Alberta for 16 years
- Used nationally and internationally extensively
What can CE’s be used for?

• For the protection, conservation and enhancement:
  o The environment
  o Natural, scenic or esthetic values
  o Agricultural land or land for agricultural purposes

• For the following (consistent with the above)
  o Recreational use
  o Open space
  o Environmental education use
  o Use for research / scientific studies
What can CE’s be used for?

- Anchor other programs:
  - TDC’s
  - Conservation offsets
  - Payment for Ecosystem Services programs
  - Cluster development
  - Grassbanking
  - Etc.
Nature of Conservation Easements

• Does not require ‘benefited’ parcel
• Is an interest in land for the qualified organization
• Does not lapse due to:
  o Non-enforcement
  o Use of land inconsistent with purposes
  o Change in surrounding land use
Who can hold a CE?

- **The Government**
  - Provincial government or government agency
  - Local government

- **Land trust**
  - Registered charity
  - With the object of holding interests in land for conservation
  - Will transfer interests to another qualified org on wind up
How are CE’s stewarded?

• Monitoring and extension
  o Documented
  o Regular
  o Defensible
  o Contact with landowners

• Costs of stewardship
  o Site visits
  o Communications with landowner
  o Record keeping
  o Efficiencies for municipalities
How are CE’s enforced

• If there is an infraction…
  • Bargain in good faith
  • Mediation clause

• Enforcement can be qualified organization or designate
Can CE’s be changed?

- Written agreement between landowner and qualified organization
- Minister, if in the public interest
- Checks and balances
  - CLTA Standards and Practices
  - Ecogifts constraints
  - Expectations
How are landowners compensated?

- Achieve personal conservation goals
- Tax receipt
- Cash payment
- Split receipt
- Development relaxation
How is compensation determined?

- **Donation:**
  - Before and after calculation
- **Cash:**
  - Percent of FMV
- **Split receipt:**
  - No more than 80% advantage
- **Development relaxation:**
  - Municipal discretion
Before and After Calculation

Land Value $ 

Fair Market Value 

Residual Value

“Value” voluntarily relinquished through a Conservation Easement
“New and Innovative” Applications

- Agricultural land
- Conservation development
- Conservation offsets
- Grassbanking
- Municipal planning
- Transfer of development credit
- Tax and estate planning
- Water quality protection
- Ground water protection
Agricultural Land

- Alberta only 2nd province in Canada to explicitly include this purpose
- Limited policy direction
- Role of Alberta Land Trusts
- Role of Municipalities

https://landuse.alberta.ca/LandUse%20Documents/Conservation%20Easements%20for%20Agriculture%20in%20Alberta%20-%202012-03.pdf
Conservation Developments

- Municipally linked
- Often developer/landowner driven
- Limited development occurs in a way that minimizes impact to valued conservation features
- Conservation easement registered on remainder
- Potential other benefits – lower infrastructure costs; higher lot prices
Conservation Offsets

- Also enabled in ALSA
- CE not necessary but an option
- Mitigation hierarchy
- Development impact
- Conservation action
  - CE – perpetuity vs term
Grassbanking

• Method pioneered by Malpai Borderlands Group and Animas foundation in SW US

• Alberta example - Sandstone Ranch
• Cluster Zoning
  • Increased housing density on one portion, while remainder same parcel protected by CE

• Transfer of Development Credits
  • Increased density transferred from another location

• Uses CE on “sending area” or “TDC conservation area”
Transfer of Development Credits

Determine the area to which the TDC program will apply
Transfer of Development Credits

Designate *sending* (TDC Conservation) Areas and *receiving* (TDC Development) Areas
Transfer of Development Credits

Assign a ‘development credit’ to each parcel
Transfer of Development Credits

Developers purchase ‘credits’ from other parcels

Development potential is extinguished on ‘TDC Conservation Area’ parcels
• Land devaluation can help with succession planning
• Tax receipt can help with retain more of RRSP
• Donations over time all landowners the ability to use all of their receipts
Water Quality and Quantity Protection

• New York City example
  • Payment for Ecosystem Services with CE as base

• Ground water recharge protection
  • Identify and protect critical recharge areas
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