

How Donating or Selling a Conservation Easement Works

For this exercise, let's assume our example landowner has a single 50 acre tract with a house and a large barn on it. It's family land they inherited. The parcel is worth \$650,000 in total. Their kids have moved to off and settled down on the other side of the country. The landowner would like to permanently protect their land against development and the overuse of its natural resources.

The landowner contacts EIOLT and schedules a meeting to learn about the conservation options available. After the meeting, they decide to pursue a conservation easement. EIOLT provides the landowner with a template conservation easement that identifies the minimum terms we generally require. The remaining property rights the landowner can choose to retain or donate as they see fit. The landowner determines the terms of their easement at their leisure, consulting EIOLT and independent legal counsel to answer any questions they may have.

The landowner schedules a second meeting with EIOLT to discuss the terms of the Conservation Easement. EIOLT staff and the landowner negotiate the details of the document until both are satisfied with the terms. The EIOLT's Board of Directors will then review the easement and, if they have no requested changes, give their final approval.

With the terms of the Conservation Easement finalized, the landowner and EIOLT will need to begin collecting the required legal documents. The landowner pays for all legal due diligence needed to document the condition of their property. Our example landowner is retired and doesn't stand to benefit much from income tax deductions. Because of this, EIOLT recommends they apply for Charleston County Greenbelt funding to receive cash compensation for a portion of the conservation easement value. The landowner agrees to pay the non-refundable \$2,500 application fee and the EIOLT handles the six month application process. (This fee covers our investment of staff time.)

Before the application can be submitted, several due diligence documents must be created. Most importantly the "title research" and a "conservation appraisal." The title research confirms the landowner has clear title to the land and will be able to donate the easement. The conservation appraisal defines the land value the landowner is donating with their conservation easement. This value is critical for determining the amount to be requested in the Greenbelt application and for tax deductions. Additionally, a current "plat," a "phase 1 environmental site assessment," and a "baseline documentation report" are also needed. (If the landowner had elected not to request grant funds, the same due diligence documents would be required but on a more flexible timeline.)

The conservation appraisal states that the value of the easement is \$200,000. This specialized appraisal only reflects the value of the land itself in its highest, best use. The two buildings on the landowner's property, valued at \$150,000 in total, are not considered. So the value of the land is only \$500,000. If the terms of the easement are applied to the deed, the land would then be worth \$300,000. Thus the value of the easement is \$200,000. The EIOLT can apply for a maximum of 25% of the conservation value to compensate the landowner for their donation. In this case that's \$50,000. EIOLT can also apply for reimbursement for the landowner's due diligence costs. (I.E. the plat and appraisal.) The remaining 75% of the easement value may still qualify as a charitable donation.

The below chart gives an estimated breakdown of what's required, financially and time-wise, of a landowner during the easement process. It also estimates how long each step will take to complete. Many of these steps can be completed at the same time and out of order. However, steps 1 thru 11 must all be completed before step 12 can be completed. Step 12 must be completed before steps 13 and 14. If they choose to do so, the landowner may back out of this process at any point before step 12 is completed. They are under no obligation to the EIOLT to donate a conservation easement.

Step	Required Action	Donor's Cost	Donor's Time
1	Introductory Meeting	\$0	1-2 Hours
2	Drafting your Easement	\$0	As much as needed
3	Second Meeting	\$0	1-2 Hours
4	EIOLT Board Review	\$0	Few weeks wait & 30 min.
5	Title Research & Insurance	\$400	Few weeks wait
6	Conservation Appraisal	\$3,500	Few weeks wait
7	CCGBP/SCCB Application(s) <i>(If pursued)</i>	\$2,500	Signature & 5-7 Month wait
8	Survey <i>(If plat is outdated)</i>	\$1,500	Signature & few months wait
9	Phase 1 E.S.A.	\$1,500	Few weeks wait
10	Baseline Documentation Report	\$0	Few weeks wait
11	Stewardship Endowment <i>(At closing)</i>	\$6,500	Signature
12	Closing <i>(After CCGBP decision)</i>	\$750 & CE value	2-5 Hours
13	CCGBP Reimbursement <i>(If awarded)</i>	(Award Amount)	None
14	Tax Breaks <i>(If Eligible)</i>	(Varies)	Wait until end of year

Back to our example landowner who has just completed all the required due diligence documentation. The EIOLT will include the newly created documentation in their application to CCGBP. Applications can only be submitted from October through January. The Charleston County Greenbelt Advisory Board and Charleston County Council will then review the application at public hearing several times. The final decision might not be made until June. If the application is not approved, the landowner may have the opportunity to amend their application that same year or they may need to re-apply for funding the following year. If the landowner does not want to reapply, they may simply donate their conservation easement without financial compensation or back out of the process entirely. (The EIOLT cannot guarantee an application will be awarded funding.)

If the application receives final approval from the Charleston County Council, CCGBP will send a "notice of grant agreement" prior to closing. At closing, a \$6,500 stewardship endowment is required by the EIOLT from the landowner. This ensures we will have the funds in reserve to monitor and defend their land perpetually. When all the required documentation is assembled, the landowner meets with EIOLT and a closing attorney to finalized the conservation easement donation. The easement is closed, recorded by the county, and EIOLT assists the landowner with requesting reimbursement from CCGBP. The landowner must seek independent advice regarding their eligibility for any existing federal, state, or local tax reductions. (The EIOLT is not able to provide personalized tax or legal advice.)

If you have questions, please contact the Edisto Island Open Land Trust. We're happy to help.

Phone: (843) 869-9004

Email: land@edisto.org

Address: 547 HWY-174, Suite 7G