

## **DUE DILIGENCE AND IMPACT OF EASEMENT AGREEMENT**

### **Due Diligence - All Appraisals/Before Value**

- A. Identify Property
  - 1. Legal Description
  - 2. Maps, Sketches, Surveys
  - 3. Photographs
- B. Identify Rights Appraised
- C. Identify Government Influences
  - 1. Taxes and Assessment
    - a. Impact to Potential Income Stream
    - b. Unusually High or Low Resulting in Impact on Affordability/Marketability
  - 2. Zoning/Land Use
  - 3. Flood Zone
  - 4. Moratoria, Environmental Sensitivity, Permits, etc.
  - 5. Growth Management
- D. Identify Private Influences
  - 1. Title Information
    - a. Restrictions, Reservations, Easements, etc.
  - 2. Leases
- E. Identify Market Influences
  - 1. General Area Data
  - 2. Neighborhood Data
  - 3. Market Trends
  - 4. Marketing Times
  - 5. Subject Sales History
- F. Identify Property Characteristics
  - 1. Improvements
  - 2. Configuration, Size, Topography, Aesthetics, etc.
  - 3. Timber, Minerals, Water Resources, etc.
- G. Conclude Highest and Best Use and Value

- II. Due Diligence - Conservation Easements/After Value
  - A. Thorough Reading/Understanding of Easement Document
  - B. Baseline Documentation Report
    - 1. Physical and economic rights of remainder
  - C. Distinguish Between Rights Conveyed and Rights Encumbered
  - D. Breakdown/Analysis of Impact to Bundle of Rights
    - 1. Title
    - 2. Transferability
    - 3. Division, Development, etc.
  - E. Conclude Highest and Best Use and Value

## IMPACT OF THE EASEMENT AGREEMENT - Cont.:

### EXAMPLE OF GENERAL EASEMENT DOCUMENT

Comparison of Rights			
Rights	Before Acquisition	After Acquisition	Relative Impact
<b>Title</b>	Fee Simple	"Partnership" with acquiring entity. Entity can direct use of property on behalf of conservation easement.	Significant decrease of existing rights and a significant encumbrance on the remaining rights. Significant impact on value.
<b>Transferability</b>	Fee simple right to sell.	Right to sell remainder rights subject to terms and uses permitted by the easement.	Significant encumbrance on the remaining interest. Significant impact on value.
<b>Division of Property</b>	Right to subdivide and sell, subject to zoning/land use regulations and vested DRI development densities.	Generally no right to subdivide except for residential sites as stated in the easement agreement.	Significant decrease of existing rights. Significant impact on value.
<b>Residential Development</b>	Can be developed subject to zoning/land use regulations and vested DRI development densities.	May be developed only in accordance with terms of easement.	Significant decrease of existing rights. Significant impact on value.
<b>Cattle Grazing</b>	Fee simple right to graze cattle.	May or may not continue to graze cattle on easement area subject to terms of easement.	Significant encumbrance on the remaining interest. Considerable impact on value.
<b>Agr./Silvicultural Use</b>	Fee simple right to agriculture and silviculture.	May or may not continue to practice agriculture and/or silviculture on easement area subject to terms of easement.	Significant decrease of existing rights and a significant encumbrance on the remaining rights. Considerable impact on value.
<b>Mining</b>	Fee simple right to mining subject to zoning and outstanding mineral interests.	Subject to terms of easement.	Significant decrease of existing rights, minimal decrease associated with value
<b>Hunting/Fishing Rights</b>	Fee simple right to hunting and fishing	Subject to terms of easement.	Minimal to moderate impact on current highest and best use/value.
<b>Management</b>	Fee simple/owner option.	Subject to terms of easement	Significant encumbrance on the remaining interest. Considerable impact on value.
<b>Access</b>	Private/owner only	Subject to terms of easement	Moderate impact on remaining interest. Moderate impact on value.
<b>Roads/Structures</b>	Fee simple, subject to proper permits	Subject to terms of easement.	Significant encumbrance on the remaining interest. Significant impact on value.



## IMPACT OF THE EASEMENT AGREEMENT - Cont.:

### EXAMPLE OF ACTUAL EASEMENT DOCUMENT

Comparison of Rights			
Rights	Before Acquisition	After Acquisition	Relative Impact
<b>Title</b>	Fee Simple	"Partnership" with government entity. Entity can direct use of property on behalf of conservation easement.	Significant decrease of existing rights and a significant encumbrance on the remaining rights. Significant impact on value.
<b>Transferability</b>	Fee simple right to sell.	Right to sell, subject to first right of refusal and uses permitted by the easement.	Significant encumbrance on the remaining interest. Significant impact on value.
<b>Division of Property</b>	Right to subdivide and sell, subject to zoning/land use regulations and vested DRI development densities.	No right to subdivide except for the residential sites noted below.	Significant decrease of existing rights. Significant impact on value.
<b>Residential Development</b>	Can be developed subject to zoning/land use regulations and vested DRI development densities.	Total of 5 new residences with two outbuildings each. Cannot impact more than 5 acres. Each of the 5 subdivided lots shall be at least 1,500 acres in size.	Significant decrease of existing rights. Significant impact on value.
<b>Cattle Grazing</b>	Fee simple right to graze cattle.	Mandatory compliance with a cattle management plan prepared by the owner and approved by the easement owner.	Significant encumbrance on the remaining interest. Considerable impact on value.
<b>Agr./Silvicultural Use</b>	Fee simple right to agriculture and silviculture.	Except for areas converted to a timber plantation from an improved pasture, no timber harvesting shall be allowed on the property.	Significant decrease of existing rights and a significant encumbrance on the remaining rights. Considerable impact on value.
<b>Mining</b>	Fee simple right to mining subject to zoning and outstanding mineral interests.	No mining.	Significant decrease of existing rights, minimal decrease associated with value
<b>Hunting/Fishing Rights</b>	Fee simple right to hunting and fishing	Limits on food plots and, in some instances, limits on the number of persons and vehicles per day.	Minimal to moderate impact on current highest and best use/value.
<b>Management</b>	Fee simple/owner option.	Ongoing adjustment of operational practices subject to review of Grantee or its assigned successor.	Significant encumbrance on the remaining interest. Considerable impact on value.
<b>Access</b>	Private/owner only	Access available to easement monitor.	Moderate impact on remaining interest. Moderate impact on value.
<b>Roads/Structures</b>	Fee simple, subject to proper permits	None except 5 residences and ancillary structures noted above. No new roads or trails.	Significant encumbrance on the remaining interest. Significant impact on value.