



*Forever is a very
long time.*

Anonymous

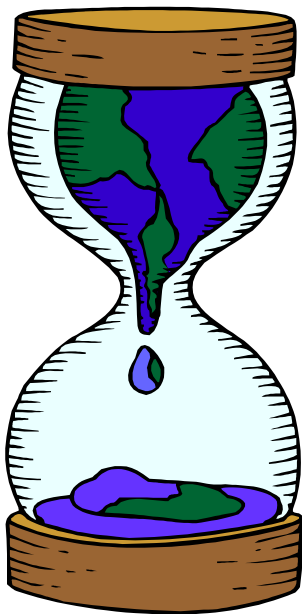
Long Term Protection Options

Open space needs long term protection. The environmental, aesthetic and economic values inherent in open space are meaningless without some permanency to their existence. Once a decision has been made regarding the type and design of vegetative cover on the site, it is important to ensure that no future development will threaten the “open” nature of the area. Long term protection depends upon the owner’s stewardship policies. The following sections discuss what to look for when assessing future ownership, what legal protection options are available and what options are available to transfer ownership.

Ownership Options

Owner’s options for open space protection include: continuing with current ownership (individual, family, developer, or homeowner association.) or transfer ownership to a federal, state or local government agency or to a non-profit conservation organization such as a land trust or land conservancy.*. Current land owners should spend time investigating the pros and cons of potential owners before making a decision. Obtaining answers to the following questions should help:

- ✍ Do the goals of the potential owner match the goals of the current owner?
- ✍ Will the new owner provide long term legal protection to prevent development?
- ✍ Will the new owner provide long term management, maintenance and policing of the land? (Land management, etc., does not necessarily have to be conducted by the same entity – one could own, the other manage.)
- ✍ Will the new owner have qualified staff to carry on land protection and management?
- ✍ Is the potential new owner financially solvent?
- ✍ What is the potential new owner’s track record on similar properties?
- ✍ What happens if the management firm or organization the potential new owner has in mind for managing the property dissolves?



Long Term Protection Options

Southeast Wisconsin Land Trusts

Jefferson County

Jefferson County Environmental Land Trust
PO Box 194
Jefferson, WI 53549

Milwaukee County

Milwaukee Area Land Conservancy
10203 Ridge Road
Hales Corners, WI 53130

Ozaukee-Washington Counties

Ozaukee Washington Land Trust
P.O. Box 917
West Bend, WI 53095

Racine-Kenosha Counties

Kenosha/Racine Land Trust
P.O. Box 085153
Bacine, WI 53408

Walworth County

East Troy Area Lakes Land Trust
P.O. Box 142
East Troy, WI 53120

Geneva Lakes Conservancy

P.O. Box 1165
Lake Geneva, WI 53147

Kishwaukee Nature Conservancy

P.O. Box 580
Williams Bay WI 53191

Waukesha County

Muskego Lakes Land Conservancy
S64 W18431 Topaz
Muskego, WI 53150

Tall Pines Conservancy

P.O. Box 65
Nashotah, WI 53058

Waukesha County Land Conservancy

P.O. Box 2572
Brookfield, WI 53008

Retaining Ownership

Private individuals, families, development companies or homeowners associations may wish to retain ownership and provide long term legal protection through deed restriction or conservation easement. They may also plan to do their own land management, maintenance and policing or pay to have it done by a land trust or private land management company.

Deed restrictions are a list of prohibited uses (eg. No development) designated by the current owner for future owners. The restrictions are attached to the property title and are legally binding. Problems with deed restrictions as a means of land protection are who will police and enforce prohibited use violations and who will assume long term management and maintenance. Current owners are likely to comply but future owners may not.

Conservation easements also restrict certain uses (no development) but the conservation agreement is held by a separate entity such as a land trust or a government agency. They police the area covered by the easement and can take legal action against violators. The landowner continues to pay taxes and can control trespass. A conservation easement may or may not contain land management provisions. If not, the private land owner, development company or homeowners association may do their own land management or hire this task out. (For more information about easements see attached page.)

Transferring Ownership

An effective option for long term protection of open space may be to transfer ownership to a group or agency whose specific mission or objective matches those of the current owner. The transfer may include restricted uses placed on the property by the current owner and agreed to by the new owner.

Transferring ownership to a municipality or government agency may be appropriate when the transfer will fit into existing goals or master plans to benefit the public. For example, a particular parcel is part of a plan for an area-wide trail system or a new park or expansion of an existing one, preservation of environmental corridors or identified natural areas. The government body assumes maintenance and liability while still keeping the land as open space. A disadvantage may be that master plans and zoning laws are subject to change by newly elected officials and open space may not be permanently preserved as originally intended. Financial constraints may affect the municipality's ability to provide maintenance and management.

Ownership by a non-profit, tax exempt conservation organization

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such as a land trust is appropriate if the open space furthers the environmental causes of the organization. Land trusts have as their mission to protect and enhance natural areas and other environmentally significant features. They usually have qualified staff to monitor and manage their lands over the long term. A disadvantage however, is that not-for-profit groups sometimes rely on volunteer staff who work when they want to or, if they have paid employees, must have a stable financial situation. This may not always be the case when relying on

Ways to Donate	Ways to Sell
A. Outright Donation	A. For Full Purchase Price
B. Through a Will	B. Bargain Sale
C. Through a Life Estate	C. Installment Sale
	D. Reserved Life Estate Sale

grant and donations.

Ways to Transfer Land

Donation Methods

A. Outright Donation: A company or private landowner may give land to a chosen recipient without any conditions or may restrict certain uses. A charitable deduction may be claimed if the land is given to qualifying non-profit organization or municipality.

B. Will: By donating through a will, a private landowner retains full use and control of the land until they die. They are not eligible for income tax savings that would be possible if the land was donated during the lifetime of the individual. The donation value may reduce the amount of estate tax paid by heirs.

C. Life Estate: A life estate form of donation allows the donor to live and use the property during their lifetime and/or the lifetime of other members of the immediate family. The donation may be considered charitable and may be eligible to claim as an income tax deduction. The amount of the tax deduction depends on how long the donor and/or immediate family plan to use the property. The donor continues to pay real estate tax on the portion of the land retained for use.

Selling Methods Selling land to an appropriate organization or agency assures that the property owner will obtain financial benefits and the property will be maintained in the condition the seller desires. There are four way to sell land.

A. Full Price Purchase: In this sale scenario, a fair market price is paid



Protected land is a lasting legacy.

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to the private landowner or company by an appropriate municipal body or conservation organization. The seller should be aware that they may be subject to capital gains tax.

B. Bargain Sale: A bargain sale implies the seller is selling below fair market value. It may be possible to claim the difference between market value and the lower bargain sale as a charitable donation for tax purposes

C. Installments Sale: An installment sale allows the seller to spread the income from the sale over several years. This spreads tax liability over the same number of years and can help the buyer finance the purchase. The sale can be either a bargain or a full market price.

D. Reserved Life Estate Sale: In this selling option, a private landowner may sell the land but continue to use the property for the remainder of their and/or their family's lifetime. Tax ramifications depend on the type of sale—fair market, bargain or installment.

Definitions:

A **Homeowners Association** is an organization of homeowners in a specific subdivision who own land in common. The land may be open space or contain buildings, swimming pools, or storm water ponds. The purpose of the group is to manage and maintain the common facilities, provide services and raise funds. They are private, non-profit organizations, incorporated or not.

Land trusts (sometimes called conservancies) are grassroots, non-profit conservation organizations dedicated to long term protection and management of land for its natural, recreational, scenic or educational value. They hold these lands and their associated benefits in trust for future generations. Land trusts can own land and hold conservation easements

Contacts:

Option for Open Space

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