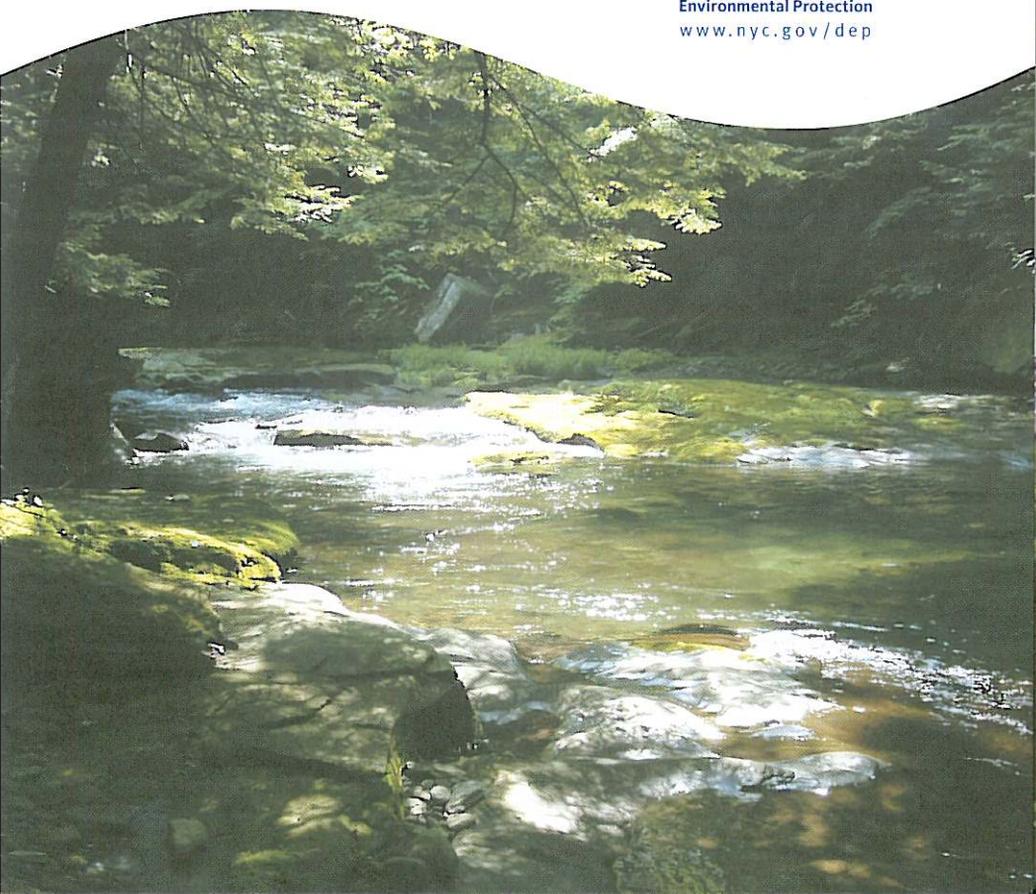


New York City Watershed Conservation Easements

A program to benefit landowners and water quality



New York City Department of
Environmental Protection
www.nyc.gov/dep



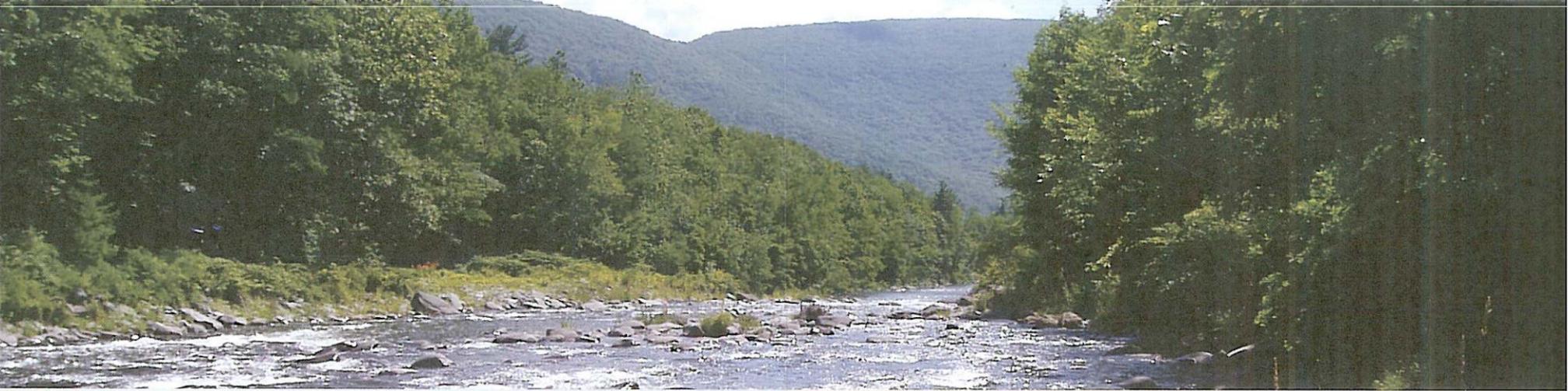
New York City's Land Acquisition Program and Conservation Easements

New York City's water supply watersheds provide drinking water for eight million people in the City and one million people in four upstate counties, plus the millions of commuters and tourists who visit the area throughout the year. The landmark 1997 Watershed Memorandum of Agreement outlines New York City's Land Acquisition Program (LAP), a unique willing seller/willing buyer program through which New York City acquires property and conservation easements in the watershed at fair market value. The New York City Department of Environmental Protection (DEP) operates the LAP and manages City-owned land and reservoirs with the primary goal of water quality protection. While outright sale of property may appeal to some landowners, others may want to consider selling conservation easements, which allow owners to continue to use and enjoy their land. In exchange for relinquishing certain development rights, conservation easements give landowners tangible economic benefits: a one-time lump sum cash payment and a shared property tax burden.

This brochure explains the benefits of conservation easements and outlines the process of selling a conservation easement to New York City. The following information is not intended as a substitute for professional advice about the financial, legal, tax or real estate implications of conservation easements in the watershed or their appropriateness for any given landowner, nor to guarantee any retained rights (these are dictated by the specific easement).

An aerial view of the first conservation easement acquired by the City — a 102-acre parcel that includes part of the Esopus Creek, in the Ashokan Reservoir basin in Ulster County.





What is a conservation easement?

It is a legal agreement in which a landowner limits the type and amount of development on his or her property in perpetuity. Under the Conservation Easement Program, the City buys easements at fair market value, and landowners receive long-term property tax benefits. Key features of the City's easement program are:

- ◆ The City makes purchase offers that are based on fair market value appraisals. These appraisals are paid for by the City and prepared by independent, New York State-certified appraisers at no obligation to the seller.
- ◆ Conservation easements restrict lands from certain activities that could jeopardize water quality. Such limits may apply to future development, land disturbance, road construction and alteration of watercourses or wetlands.
- ◆ Easements usually accommodate current uses of the property, including areas with houses and related structures, such as garages, barns and tool sheds.
- ◆ Landowners who sell easements may retain certain rights for activities such as passive recreational use, managed forestry and bluestone quarrying, and, as specified, even construction of new houses, additions or outbuildings.
- ◆ The City is obligated to pay property taxes in proportion to the conservation easement's value, while landowners must pay taxes proportional to the real property rights, including all structures, they retain. The intention is to lower the property owners' tax bills significantly, without diminishing local tax revenues.
- ◆ Under all easements, landowners retain the right to sell, bequeath, or transfer the property subject to the easement. The limitations and tax benefits defined in the original easement remain in place with each change of ownership.

How do I sell a Conservation Easement to DEP?

DEP reaches out to landowners by sending solicitation letters to owners of properties the City may have an interest in protecting with conservation easements. Landowners can also call DEP staff directly to express their own potential interest in the program. Once invited to meet with a landowner, a site visit is scheduled. DEP staff will bring maps and review with the landowner details of the conservation easement and how it would apply to the specific property. The easement is generally designed to allow existing residential use to continue within a "building envelope," while the vacant part of the property is largely protected from further development. Other rights, such as forestry, specific farming activities, and in some cases bluestone mining, can be retained by the landowner and pursued, if harvest plans are submitted to and approved by DEP.

Once the landowner and DEP agree on the easement configuration, an appraisal is ordered — paid for by DEP — from an independent appraisal firm licensed by New York State. The appraisal is commissioned to establish the fair market value of the conservation easement, based on existing appraisal standards and market and site conditions. The City's purchase offers are made based on that determination of value, and landowners are free to accept or reject the offer. If the offer is accepted, a purchase contract is sent to the landowner, whom DEP encourages to consult with an attorney and financial advisor prior to signing a purchase contract.

How is the value of the easement determined?

As with all real estate, every site is appraised individually, based on its own merits and the existing market data in the region. The appraiser generally uses the following standard calculations to value the conservation easement.

Example: Assume a 100-acre vacant parcel

- ◆ Based on recent sales of properties that are similar to the parcel (comparable sales), the appraiser determines that the market value of the property — as if undeveloped (vacant) and sold outright — is \$3,000 per acre, or \$300,000. This is considered the "before" value. The "after" value is calculated by assuming the easement has been applied, and estimating the value of the property as if encumbered by the easement.

\$300,000 <i>Full value of the vacant land without the conservation easement ("BEFORE")</i>	minus	\$100,000 <i>Value of the vacant land with an easement ("AFTER")</i>	=	\$200,000 <i>Value of the easement PRICE</i>
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- ◆ The appraiser then seeks comparable sales for similar properties that cannot be further developed, similar to the condition of the property as if the conservation easement were in place. The appraiser determines that the market value of the property, in this "after" condition — as if

subjected to the terms of the easement — would be \$100,000. The value of the conservation easement is equal to the "before" situation minus the "after" situation, and the appraiser concludes that the value of the conservation easement is \$200,000.

- ◆ Based on the appraisal, the City will offer this landowner \$200,000 for a conservation easement on the property.

How much of my property taxes does New York City pay after buying a conservation easement?

The City pays property taxes, including school taxes, on all land and easements it purchases through this program, in accordance with State law. The amount of local taxes the City will pay on its conservation easements is based on the proportional value of the easement relative to the full value of the property, not considering the value of improvements (houses, structures, etc.). The City pays such taxes from the date of the closing — in perpetuity.

Example: Using the same example, the value of the easement is \$200,000, or 66% of the vacant property's \$300,000 market value at the time of closing. The City should be billed for and pay 66% of the property taxes attributed to the value of the vacant land under easement. The landowner is responsible for the remaining property taxes in addition to taxes assessed on structures. New York City does not pay taxes on houses, buildings and other improvements under a conservation easement.

\$3,000 <i>Property tax bill on vacant land without easement</i>	multiplied by	34% <i>Proportional ownership</i>	=	\$1,020 <i>Your annual tax bill on vacant land with easement</i>
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The City's tax bill in this scenario would be \$1,980.

Sale of an easement may cause the property to be re-assessed and the assessed value may be higher, lower or identical to its current assessed value. Property assessment remains the responsibility of the local assessor.

Sale of an easement may result in capital gains treatment and/or reduced estate taxes. Landowners should consult their attorneys about these possible costs and benefits, as well as other tax consequences that may result from selling a conservation easement to the City.

Can I still manage my forests or quarry bluestone under a conservation easement?

The easement has been designed to allow for such uses, when performed under appropriate, managed conditions. For more detailed information about either of these activities, contact the LAP office at 1-800-575-LAND (5263).

What are the property tax implications of enrolling my property in the New York State 480a Forest Program?

The conservation easement is designed to accommodate properties enrolled in the New York State 480a Forest Program. As of 2009, the 480a program provides a substantial reduction in property taxes for many enrolled landowners. These tax benefits would not be affected by selling a conservation easement to the City.

\$3,000 <i>Initial yearly tax</i>	-	80% <i>480a reduction (estimated)</i>	=	\$600 x 34% <i>Remainder after easement</i>	=	\$204 <i>Your share of yearly taxes</i>
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Example: If annual property taxes are \$3,000 and a conservation easement is worth 66% of the overall property value, then under current 480a Forest Program tax provisions, the tax consequences would be as follows:

The City's property tax burden is not affected by 480a, however, and would remain at 66% of the \$3,000 tax bill, or \$1,980. The benefits of reduced taxes under the 480a program are only established once the property is enrolled in 480a and approved by the State.

How does the City monitor a conservation easement?

DEP Land Management staff visit each property at least once a year to check for compliance with the easement's terms. Landowners are notified in advance and may accompany DEP personnel on the tour of the easement property. If the terms of the easement are breached, the owner will need to restore the property to its prior condition. While DEP is responsible for monitoring and enforcing the terms of easements, its priority is working in partnership with landowners to avoid violations from occurring in the first place.

Benefits of a conservation easement

Sale of a conservation easement to the City provides cash in return for conveying and extinguishing development rights, and can reduce taxes for the individual landowner, while maintaining the local tax base. Easements also allow landowners to continue to use their properties for recreation, and potentially, to generate income from certain farming and forestry activities and bluestone quarrying. New York City benefits because all land under easement helps to ensure continued superior water quality in perpetuity.

Contact us

Call 800-575-LAND (5263) to have a Land Acquisition real estate specialist call you about your watershed property. For more information about New York City's Land Acquisition Program, visit *Watershed Protection* on DEP's website at www.nyc.gov/dep.



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Bureau of Water Supply
Land Acquisition Program
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