Guide to Land Preservation in Maryland
(Land Sales, Purchase and Leasing)

A Maryland FarmLINK Assistance Guide

Overview

Maryland is ranked the fifth highest state in population density in the country. Yet, it has one of the strongest agricultural land preservation records in the nation and a successful agricultural economy. Including state and county land preservation programs, approximately 701,000 acres of privately owned farmland have been protected in Maryland through FY 2012 and another 106,000 acres have been preserved through private conservation organizations and other tools.

Marylanders believe that farms and the crops they produce should remain a part of the State’s culture and economy. According to a survey conducted in 2010 by the Schaefer Center for Public Policy, Maryland citizens support land preservation. Of those surveyed, 61 percent believed that it is very important that the state preserve farmland for farming and 78 percent were more likely to buy produce identified as having been grown by a Maryland farmer.

Development potential is just one of a bundle of rights typically associated with land. Depending on local laws, others may include the right to harvest timber, hunt, grow things, mine and keep intruders off the land. Land preservation programs separate the “development rights” associated with zoning from the other property ownership rights. Thus owners can sell their property’s development potential without selling their land and without affecting other property rights.

By allowing property rights to be sold, donated or otherwise conveyed, the state and counties give landowners more flexibility. For example, in estate planning, some may choose to convey the farm to one child the farm and development rights (a salable commodity) to another child so that each gets an

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equitable part of the estate without dividing the farm. Some may choose to sell their mineral rights or hunting rights and keep their other rights. Stewards of the land may choose to sell or donate an easement that will establish requirements to protect valued resources and environmental features.

While these tools are a key to the future of farming in Maryland, they can pose challenges to land purchase, land sales and land leasing. The purpose of this land preservation tutorial is to introduce you to land preservation tools which may impact a new farming venture.

**Land Preservation Tools in Maryland**

Generally, there are three main types of farmland preservation programs in Maryland: easement donation, easement sale, and transferable development rights sale. Many people are more familiar with the use of the term “easement” as a right of access over a property. Easements also are written agreements which apply conditions to the use of property such as the maximum number of residential lots, allowable land uses, minimum stream buffers and wetland protections. Easements are usually recorded in county land records.

Easements can be sold or donated to conservation organizations and are similar in use and application to covenants running with a parcel of the land. Development rights are established by local zoning regulations. A number of Maryland counties have programs that allow development rights to be sold or otherwise conveyed to increase the development potential on another property. Immediately prior to the sale of a development right, a covenant is recorded on the land which limits allowable land uses and future development.

**Easement Donation**

The **MARYLAND ENVIRONMENTAL TRUST (MET)** was created in 1967 to “to conserve, improve, stimulate, and perpetuate the aesthetic, natural, health and welfare, scenic, and cultural qualities of the environment, including, but not limited to land, water, air, wildlife, scenic qualities, [and] open spaces.” By the end of FY 2012, MET held easements on 128,271 acres of land and in every county. Those who donate easement may be eligible for significant income tax and property tax credits. More information about donating an easement to MET can be found in its [FAQS](http://smadc.com/farmRESOR/tut_landpres.html).

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Easement Sale

The state and a number of counties have easement purchase programs. THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION (MALPF) was one of the first state easement purchase land preservation programs in the country and it continues to be one of the most successful. By the end of FY 2012, MALPF had preserved 284,950 acres of farmland. The state holds MALPF easements in every county.

In general, owners of 50 or more acres of farmland can apply for an easement sale and set an asking price. Counties rank the applications to be considered in a given easement acquisition cycle. Two independent fee appraisers are selected to establish a Fair Market Value for your property. The Foundation calculates an Agricultural Value for the property which is its agricultural production value. Each county prioritizes its applicants by its own ranking system and forwards its prioritized list to the state which makes the offers to selected applicants. The full process is outlined in the Foundation’s FACT SHEET 2: EASEMENT ACQUISITION PROCESS.

The MARYLAND RURAL LEGACY PROGRAM is an easement program that preserves farmland but places high priority on environmental protection as well. The program’s focus is to preserve large, contiguous areas of farm and forest areas and “to enhance natural resource, agricultural, forestry and environmental protection through cooperative efforts among state and local governments and land trusts.” Established in 1997, the Program requires applicants to apply to establish Rural Legacy Areas. If an area is approved by the Rural Legacy Board, then property owners within a Rural Legacy Area can apply to sell an easement. By the end of FY 2012, the Program had protected 74,393 acres of land. The application process is spelled out on its HOW TO APPLY page.

Maryland has also purchased easements on farms as part of its GREEN PRINT PROGRAM. All of the other easement programs mentioned are initiated at the request of the property owners. The Green Print program is different in that it is part of a state effort to delineate and protect the most ecologically significant lands in the state using up-to-date mapping techniques and targeted acquisitions and easements.

Harford, Frederick, Carroll, Howard, Calvert, and Anne Arundel counties have the most successful county easement purchase programs. Such programs vary widely in structure, but the application requirements and easement restrictions typically are roughly patterned after the state easement program. County program links are listed below.

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Transferable Development Rights

A key approach to transferable development rights programs is to use private sector investments, rather than public sector funds, to preserve farmland. Zoning maps and regulations establish the allowable number of dwelling units on properties. The programs allow developers to purchase development potential from farmers and transfer them to a property that they are developing. Prior to the development rights transfer, a restrictive covenant is recorded on the farm from which the development rights are being sold. Montgomery County has the most successful transferable development rights program in the country, followed by Calvert County.

Farmland Purchasers Beware!

All these programs have been very successful in preserving land that might otherwise have been developed. In the long run, they are protecting Maryland’s farming industry and environmental resources. They also provide lower priced farms for those seeking to farm. If a parcel is not already preserved, the programs can be used to lower the debt load on a farm if it qualifies for a program and funding is available.

However, they create challenges for purchasers and realtors who want to know how a property can be used. It is not possible to just look at a deed or visit a piece of land and know the full range of land use options and the rights associated with it. In addition to checking county zoning maps and ordinances, one must look for easements and covenants. Maryland’s AGPRINT WEBSITE is one resource for identifying whether or not a property may have an easement or covenant. However, it should not be the definitive source for determining if an easement or covenant has been sold or donated. An attorney should be consulted about the need for a title search before initiating property purchase.

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County Program Links

Allegany County - participates with in the MALPF and MET programs. At the time that this page was prepared, there was no special web page on the county website for agricultural land preservation. Call 301-777-2199 for information.

ANNE ARUNDEL COUNTY – participates in the MALPF, MET, Rural Legacy and Green Print programs and has its own easement purchase program.

BALTIMORE COUNTY - participates in the MALPF, MET, and Rural Legacy programs and has its own easement purchase program.

CALVERT COUNTY - participates in the MALPF, MET, and Rural Legacy programs and has two easement purchase programs and a transferable development rights program.

CAROLINE COUNTY - participates in the MALPF, MET, Rural Legacy and Green Print programs and has a transferable development rights program.

CARROLL COUNTY - participates in the MALPF, MET, and Rural Legacy programs and has its own easement purchase program.

CECIL COUNTY - participates in the MALPF, MET, and Rural Legacy programs and has its own purchase of development rights and transfer of development rights programs.

CHARLES COUNTY - participates in the MALPF, MET, Rural Legacy and Green Print programs and has a transferable development rights program.

Dorchester County- participates in the MALPF, MET, Rural Legacy, and Green Print programs. At the time that this page was prepared, there was no special web page on the county website for agricultural land preservation. Call 410-228-3234 for information.

FREDERICK COUNTY - participates in the MALPF, MET, and Rural Legacy programs and has its own easement purchase program.

GARRETT COUNTY - participates in the MALPF, MET, and Rural Legacy programs.

HARFORD COUNTY - participates in the MALPF, MET, Rural Legacy and Green Print programs and has its own easement purchase program.

HOWARD COUNTY - participates in the MALPF, MET, and Rural Legacy programs and has its own easement purchase program.

KENT COUNTY - participates in the MALPF, MET, and Rural Legacy programs.

MONTGOMERY COUNTY - participates in the MALPF, MET, Rural Legacy and Green Print programs and has an easement purchase program and a transferable development rights program.

PRINCE GEORGE’S COUNTY - participates in the MALPF, MET, and Rural Legacy programs and has its own easement purchase program.

Queen Anne’s County - participates in the MALPF, MET, Rural Legacy and Green Print programs and has an easement purchase program. At the time that this page was prepared, there was no special

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ST. MARY'S COUNTY - participates in the MALPF, MET, and Rural Legacy programs and has a transferable development rights program.

Somerset County - participates in the MALPF, MET, Rural Legacy and Green Print programs. At the time that this page was prepared, there was no special web page on the county website for agricultural land preservation. Call 410-651-1424 for information.

TALBOT COUNTY - participates in the MALPF, MET, and Rural Legacy programs and has a transferable development rights program.

WASHINGTON COUNTY - participates in the MALPF, MET, Rural Legacy and Green Print programs and has easement purchase programs.

WICOMICO COUNTY - participates in the MALPF, MET, Rural Legacy and Green Print programs and has local easement program.

WORCESTER COUNTY - participates in the MALPF, MET, Rural Legacy and Green Print programs.

Disclaimer:
The information in this site is intended for use as educational material to assist landowners, farmers, and their advisors in understanding various laws and zoning regulations. These resources are not intended, and should not be used, as legal advice. Landowners and farm operators should consult a lawyer and other relevant professionals prior to entering a lease agreement or purchasing property. Reasonable efforts have been made to ensure the accuracy of the information contained herein; however, the content and interpretation of laws and regulations are subject to change. Southern Maryland Agricultural Development Commission and the Tri-County Council for Southern Maryland disclaim all liability to any person for any loss caused by errors or omissions in the information. The use of these materials by any person represents an agreement to hold harmless the author, Southern Maryland Agricultural Development Commission and the Tri-County Council for Southern Maryland for any liability, claims, damages, or expenses that may be incurred by any person as a result of reference to or reliance on the information contained in this site.