



ALASKA ASSOCIATION FOR HISTORIC PRESERVATION EASEMENT PROGRAM

PRESERVATION EASEMENT PROGRAM INFORMATION

WHAT IS A CONSERVATION EASEMENT?

Ownership of a piece of property is often described as a “bundle of rights.” These rights include the right to occupy, use, lease, sell, and develop the land. A conservation easement involves the exchange of one or more of these rights from the property owner (“the grantor) to someone who does not hold title to the property (“the holder or grantee”). A conservation easement grants to the holder certain rights regarding the use of the property for specified conservation purposes while the title to the property and all other uses of the property remain with the private property owner. Typically the rights granted to the holder are the right to restrict certain uses the owner otherwise has the right to exercise. All easement documents are individually crafted by the owner(s) and the Alaska Association for Historic Preservation adhering to the State of Alaska’s Uniform Conservation Easement Act (AS 34.17). An easement is a legally binding covenant that is publically recorded and runs with the property deed for a specific time or in perpetuity. Each easement is tailored to the unique situations of each owner and property, and can therefore, vary as to what future uses are restricted. An easement does not grant ownership and does not absolve the property owner from traditional owner responsibilities, such as property tax, upkeep, maintenance, and improvements. A conservation easement is a voluntary property-protection tool that is privately initiated.

EXAMPLES OF CONSERVATION EASEMENTS:

- **PRESERVATION EASEMENT**

A preservation easement is a legal agreement that gives the easement holder a responsibility to protect the visual and structural integrity of a particular historic structure, even though that structure is actually owned by another person. The intent of the preservation easement is to prevent anyone from demolishing or severely altering the historic building without the permission of the easement holder. The owner retains all the usual private property rights except for the right to destroy the property. Alterations, improvements, and even additions to the structure are allowed, as long as they do not compromise its historic character.

- **ARCHAEOLOGICAL EASEMENT**

An archaeological easement is designed to provide the holder the right to restrict certain activities on the private land, such as commercial development or residential subdivisions that are likely to compromise the long-term conservation of the cultural resources found on the property. An archaeological site can include a historic or pre-

historic structure, site, or place that has cultural significance. It gives the holder the responsibility to monitor and enforce the property use restrictions imposed by the easement for as long as it is desired to run.

- **FAÇADE EASEMENT**

A façade easement is designed to maintain the historic character of a building's façade. It serves to ensure the exterior architectural features of a building are retained and maintained for conservation and preservation purposes and to prevent any use or change to the buildings façade that will significantly impair or interfere with the building's exterior historic architectural value. When a facade easement is created, the owner of a building agrees not to make changes to the facade without confirming that they will not compromise the historic value.

WHY ARE EASEMENTS IMPORTANT?

Many people interested in older buildings are under the false impression that if a building is "historic," it is somehow automatically protected from destruction. In reality, a listing on the National Register of Historic Places does not prevent an owner from demolishing a building. In some cities, local preservation ordinances do provide a measure of protection for historic properties. Many local ordinances, however, only provide for a delay in the demolition process. An easement, on the other hand, is a legal document that insures the preservation of a historic property for a certain length of time or even in perpetuity. Façade easements often insure a property's preservation more effectively than zoning or historic designation.

Similarly, archaeological easements ensure a commitment to monitor and protect cultural resources from development and vandalism.

HOW CAN EASEMENTS BENEFIT PROPERTY OWNERS?

Granting a preservation easement can possibly qualify an owner for some financial incentives. First, the assessed value the property may be lowered or stabilized, resulting in property taxes that are lower or at least held to their current rate. Some residential properties may not see much of a difference, as the easement would not diminish a house's value for use as a home. The savings, however, may be substantial in the case of urban properties that are zoned to allow buildings much larger than the existing historic structure and in the case of rural properties where the easement precludes extensive development.

Second, a property owner who grants an easement to a qualified tax-exempt organization such as Alaska Association for Historic Preservation can qualify for an income tax deduction under the charitable contribution clause. Some restrictions apply. As with any tax issue, you should consult your accountant to find out how these easement benefits could affect your specific financial situation. For example, the amount of the tax deduction is determined by the appraised value of the façade; typically, the IRS stipulates that the façade value is equal to 11 percent to 15 percent of the appraised value of the home.

Finally, easements that lower the assessed value of a property can also reduce estate, gift, and capital gains taxes. These savings will, of course, depend on the particular property in question and the financial situation of the easement donor.

It is the responsibility of the property owner to contact the IRS, their legal advisor and/or accountant to determine how the granting of an easement may impact their own financial situation.

WHAT DOES A CONSERVATION EASEMENT COVER?

Façade/Preservation easements held by the Alaska Association for Historic Preservation pertain to the exterior envelope of the building. The interior of the building is not usually included in the scope of the easement; however, structural elements are indirectly covered since the exterior of the building obviously cannot be preserved if the structure holding it up is allowed to collapse. Naturally, the easement also prohibits alterations to the surrounding grounds that would mar the exterior appearance of the building or the site in general, such as rubbish heaps, ash dumps, and utility towers. Secondary structures such as garages or utility sheds are allowed but their design and approval must be approved by Alaska Association for Historic Preservation prior to their construction. For projects of this scope, forward planning is always encouraged.

Preservation/Archaeological easements may also be applied to land. For example, the owner of a Native Allotment who does not wish his/her land to be developed can grant an easement restricting future development of the property. Land preservation easements have become an important tool for traditional cultural properties and have been used by conservation groups to protect wildlife habitat.

HOW DO EASEMENTS IMPACT OWNERS' USE OF THEIR PROPERTY?

Alaska Association for Historic Preservation is happy to work with the owners of buildings on which we hold easements to accommodate their needs and desires for expansion or modification of their structures. The key to success is simply to begin discussion of one's plans at the conceptual stage so that approval can be agreed upon before any work is actually started. In this way, the Association can fulfill its duty to insure that the historic integrity of the site will not be compromised. Often, the Association can provide valuable advice for getting work done right and saving money as well.

As a preservation easement holder, it is Alaska Association for Historic Preservation's responsibility to conduct regular inspections of its easement properties to confirm that they are being maintained in accordance with the terms of the easements. The inspections also allow the Association to monitor the condition of a property over time and make recommendations to property owners for maintenance work which will prevent small problems from becoming large problems. Most inspections turn out to be testimony to the dedication and care lavished by owners on their historic properties. In the rare cases where a violation of the easement has occurred, the Association is legally empowered to correct the violation at the owner's expense.

HOW LONG DOES AN EASEMENT LAST?

The length of time that an easement will run is specified in the easement document itself and can be any period agreed upon by the signers of the easement. However, most preservation easements held by Alaska Association for Historic Preservation are “granted in perpetuity” and “deemed to run with the land,” meaning that they last forever, no matter how many times or to whom the property is sold. This insures that the protection offered by the easement will not cease just because a building has a new owner.

HOW DO EASEMENTS GET STARTED?

Alaska Association for Historic Preservation acquires easements as free will donations by the property owner. The owner of a historic property who wants to insure that it will not be destroyed or inappropriately altered by subsequent owners can grant the Association a preservation easement on the property. The terms of such an easement can be written in any manner that the owner wants as long as they are acceptable to the Association. The Association can provide a boilerplate easement document that provides a framework of legal language that is acceptable to the Association.

FOR MORE INFORMATION ABOUT THE AAHP PRESERVATION EASEMENT PROGRAM VISIT OUR WEB SITE AT [HTTP://WWW.AAHP-ONLINE.NET](http://www.aahp-online.net) AND CLICK ON EASEMENT PROGRAM. FOR QUESTIONS, CONTACT AAHP AT AKPRESERVATION@GMAIL.COM OR 907-929-9870.

This information was compiled with the help of:
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