

## CONSERVATION EASEMENT DONATIONS STEPS IN THE PROCESS

The North Carolina Coastal Land Trust looks forward to working with you on your conservation easement donation. Please keep in mind that this is a complex real estate transaction that may take some time. The Coastal Land Trust does not provide either legal or tax advice to landowners and makes no representation to you as to the tax consequences of this transaction. You are advised to seek independent tax and legal counsel for all aspects of this transaction. Please provide the Coastal Land Trust with the name, address and telephone number of your attorney as soon as possible. The general steps in the process of completing a conservation easement donation to the Coastal Land Trust are listed below.

- ***Drafting the Conservation Easement*** – Both the landowner (Grantor) and the Coastal Land Trust (Grantee), with assistance from their respective attorneys, negotiate the terms of the conservation easement with respect to the reserved rights and restrictions that will be placed on the property. Sample easements will be provided upon request.
- ***Survey*** – A survey is needed to specifically identify the property that will be subject to the terms of the easement. Marking boundaries on the ground is recommended as it is extremely helpful for future stewardship and monitoring. The landowner is typically responsible for paying for the survey. In some instances, the Coastal Land Trust will apply for a grant to cover this expense.
- ***Title Examination*** – The Grantor of the conservation easement is required to provide clear title to the property subject to the conservation easement. Thus, it is important to determine early on whether or not there are any title issues, e.g., outstanding mineral rights, liens, deeds of trust, encroachments, etc. Any outstanding mineral rights must be released prior to closing. Any lien or mortgage on the property must be subordinated to the easement or paid and cancelled at closing. Any encroachment (such as a neighbor's shed on your property) will have to be moved or a document agreeing for it to remain must be signed and recorded. Resolving these issues can take time, so identifying them up front is helpful. The Coastal Land Trust will obtain a title examination and title insurance on the easement.
- ***Easement Documentation Report*** – The Coastal Land Trust will prepare a report that documents the condition of the property at the time an easement is granted. This report summarizes the natural features and human improvements on the property and is used in future monitoring of the easement. Maps, photos and information are collected with the assistance of the landowner. Both the Grantor and Grantee must sign off on the report and retain copies for their files. A Property Certification Form is prepared by the Coastal Land Trust and signed (by both parties) at closing.
- ***Appraisal*** – Please note that if you are planning to claim the conservation easement donation as a charitable contribution for federal and/or state tax purposes, it is your responsibility as a taxpayer to document the value of your contribution at the time of closing. To do so, you will need to obtain an appraisal of the conservation easement. The appraisal needs to be done either 60 days prior to the closing of the conservation easement or any time after the closing up to April 15<sup>th</sup> of the tax year in which the contribution is made. The Coastal Land Trust has an appraisal policy which will be discussed with you.
- ***Closing*** - The Coastal Land Trust's attorney will work with your attorney to prepare the conservation easement and other closing documents necessary to complete the transaction. The easement and survey will be recorded in the County courthouse.
- ***Stewardship*** –The Coastal Land Trust will be responsible for monitoring the easement to make sure the terms and conditions are abided by in perpetuity. The Coastal Land Trust will discuss its stewardship endowment policy with you in advance.