Central Virginia Land Conservancy

Guidelines for Attorneys

The Central Virginia Land Conservancy (CVaLC) strongly encourages every conservation easement donor to work with qualified legal counsel to help prepare their easement and assist in the process. The following guidelines have been prepared to assist attorneys in the process of working with (CVaLC) to accept a donation of a conservation easement.

1. CVaLC does not provide legal or tax advice, or sell Virginia Land Preservation Tax Credits.
2. Each potential easement donor (Grantor) must complete an *Application* with CVaLC to initiate the conservation easement donation process, available for download at cvalc.org or by request from the land conservancy.
3. We encourage every donor and their attorney to complete a *Terms Sheet* early in the process with CVaLC staff.
4. CVaLC uses its own *Conservation Easement Template*, and all draft easements should adhere to that document (available for download or by request). Please note that as a private land trust in Virginia, CVaLC operates under different statutes than agencies such as the Virginia Outdoors Foundation, and language suitable for use in a VOF easement may not apply to a CvaLC easement.
5. CVaLC reserves the right to prepare the baseline documentation report or engage a third party to do so.
6. CVaLC will provide assistance with identifying the conservation values of the property, as well as assistance with mapping of Exhibits and other needs at no cost, if requested.
7. CVaLC requires the donor to provide a title insurance policy, as well as a title bring-down report prior to closing. CVaLC also requires a copy of the deed showing the donor's ownership of the Property, and may also require a current survey if property boundaries cannot be determined.
8. CVaLC requires a one-time stewardship fee, paid to CVaLC prior to closing, in an amount

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specified in the Application. At CVaLC's discretion, the fee may be paid to the donor's attorney and held in escrow until the easement is recorded. CVaLC does not make a determination if this fee is tax-deductible, and donors should seek qualified tax advice. This is the only fee charged by CVaLC.

9. While CVaLC will make every effort to see that the gift of an easement qualifies under IRS and Virginia regulations, the land conservancy makes no assurances regarding the deductibility of any easement gift. CVaLC reserves the right to decline any easement if the donor intends to pursue a tax deduction or credit, but CVaLC believes the easement will not qualify.
10. CVaLC strongly encourages the use of a reputable and experienced appraiser to value all gifts of easement, and reserves the right not to participate in a project if it is not confident in the qualifications or work of the chosen appraiser.
11. If there is a mortgage on the property to be placed under easement, the mortgage holder must subordinate the mortgage to the easement so that the easement can continue to protect the property in the case of foreclosure. The donor's attorney should contact the lender early on in the process, as subordination can be very time consuming.
12. For properties owned by an LLC or other pass-through entity, CVaLC may require additional information about the entity, including but not limited to its articles of organization, proof of registration with state government, and a list of members.
13. The donor is responsible for their own attorney's fees, appraiser's fees, title search and opinion fees, surveyor's costs, and any other expenses they may incur.
14. CVaLC approves conservation easements in a multi-step process: 1) staff visit; 2) land stewardship committee visit; 3) committee approval to proceed; 4) committee approval of draft easement; 5) board approval of draft easement. Board meetings are held quarterly in March, June, September and December, however, CVaLC can approve easements by means if time is of the essence.
15. The date of the gift on the easement document should predate all signatures by the Grantee, Grantor, and any parties subordinating their interests to the easement to avoid all issues with subordination.

16. Normally the donor or their attorney will be responsible for recording the final approved conservation easement; however, CVaLC may be willing to provide this service if time is of the essence.

It is the aim of the Central Virginia Land Conservancy to work closely with the donor and the donor's counsel to provide a smooth and successful donation of a conservation easement. If at any time you have any questions, please do not hesitate to contact the Central Virginia Land Conservancy at (540) 985-0000 or by e-mail at kamstutz@brlcva.org (Kacie Amstutz, Assistant Director). All forms are available on the website of the Central Virginia Land Conservancy at cvalc.org.

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