



BLUEGRASS
LAND CONSERVANCY

CONSERVATION EASEMENTS

A guide for
KENTUCKY LANDOWNERS



Bluegrass Land Conservancy (BLC) is a community-supported, nonprofit land trust working to protect land in the Bluegrass region of Kentucky. BLC encourages the protection of agriculture, our cultural heritage, wildlife habitats, natural resources, water quality, and scenic open space, in order to sustain a high quality of life. To date, BLC has permanently protected over 35,000 acres in the Bluegrass region and is an accredited land trust through the Land Trust Alliance.

WANT MORE INFORMATION OR INTERESTED IN STARTING THE PROCESS?

It's simple! Please contact:

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A special thank you to the Texas Land Trust Council for the use of their Conservation Easement Guidebook as an inspiration and model for this guide. Many of the ideas and language herein came directly from their publication and were the result of the efforts of many professionals and organizations. Their generosity in sharing their work for the good of conservation across the country is admired and appreciated. To learn more about the Texas Land Trust Council, go to texaslandtrustcouncil.org or email info@texaslandtrustcouncil.org. Additional thanks and acknowledgement goes to information provided by the Land Trust Alliance and the 'Kentucky Guide To Conservation Easements'.

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The Bluegrass region of Kentucky, with its prime soils, productive farmland, and prosperous horse operations, is internationally recognized for its agricultural resources and scenic beauty. The landscape and rich cultural heritage spanning the area between Lexington and Louisville contribute to the quality of life and economy of the Bluegrass region, making it an extraordinary place to live, work, and play.

However, the Bluegrass landscape is changing. Subdivision and development of agricultural and natural lands into residential and commercial spaces is occurring at an alarming rate. With one of the highest rates of land loss in the country, the Bluegrass region is steadily losing its natural habitats, productive agricultural lands, and scenic open spaces.

Private landowners own and manage more than 95% of land in Kentucky. The continued fragmentation of these lands significantly impacts family-owned properties. Family-owned farms, natural, and recreational lands make up 97% of Kentucky's private lands and are negatively affected by changing economics and the increasing tax burden of owning property. Passing on a family farm or ranch to the next generation, whether within a family or to another family, is a time-honored tradition. For many Bluegrass landowners, their property is much more than a financial asset; it is part of their family history, their community, and the region's natural and cultural heritage.

This guidebook is intended to help Bluegrass landowners understand one of the most flexible and effective tools available to conserve and protect private property—the conservation easement. A conservation easement is a voluntary legal agreement that ensures a property will be conserved and maintained for generations to come.

Every conservation easement is individually crafted and reflects the special conservation values of the land protected, as well as the needs and desires of the landowner for continued management and stewardship. Conservation easements can assist landowners who wish to permanently protect their farmland, wildlife habitat, open space, water resources, scenic views, historic buildings, or archaeological sites. Some conservation easements may be purchased, however most may qualify the landowner for significant tax benefits. Each agreement is tailored to meet a landowner's specific needs, whether he or she owns 1,000 acres of natural lands or 100 acres of farmland.

This guidebook also profiles several landowners, each of whom has used a conservation easement to protect some portion of their land. These profiles illustrate how conservation easements help people conserve their privately held lands and waters for agricultural production, wildlife habitat protection, open space, and water quality protection—now, and for the benefit of future generations.

1 WHAT IS A CONSERVATION EASEMENT?

PART 1: WHAT IS A CONSERVATION EASEMENT?

A conservation easement is a written, legal agreement between a property owner and a “holder” of the conservation easement, under which a landowner voluntarily restricts certain uses of the property in order to protect its natural, productive, or cultural features. The holder of the conservation easement must be a governmental entity or a qualified conservation organization (land trust, such as Bluegrass Land Conservancy “BLC”). The landowner conveys the easement to the holder, similar to the conveyance of a deed, and the easement is recorded in land and title records at the county courthouse. The landowner retains legal title to the property and determines the types of land uses to continue, as well as those to restrict.

As part of the arrangement, the landowner grants the holder of the conservation easement the right to periodically assess the condition of the property to ensure that it is being maintained according to the terms of the legal agreement. A landowner who grants a conservation easement retains ownership of the land, while also agreeing to abide by the terms of the conservation easement. Once in place, the conservation easement is legally binding on all future owners of the land.

Many rights come with owning property, including the rights to manage resources, change use, develop minerals, subdivide, or develop. With a conservation easement, a landowner limits one or more of these rights. For example, a landowner donating a conservation easement could choose to limit the right to develop or subdivide a property, but keep the rights to build a house in a certain location, hunt on the land, raise cattle or other livestock, and/or grow crops. The landowner continues to use the property in keeping with the conservation values set forth in the easement.

Conservation easements are recognized for legal and tax purposes by the State of Kentucky (KRS 382.800) and the Internal Revenue Service (Internal Revenue Code, Section 170(h)). This guidebook seeks to answer general questions that a landowner might have about conservation easements.



WHY USE A CONSERVATION EASEMENT?

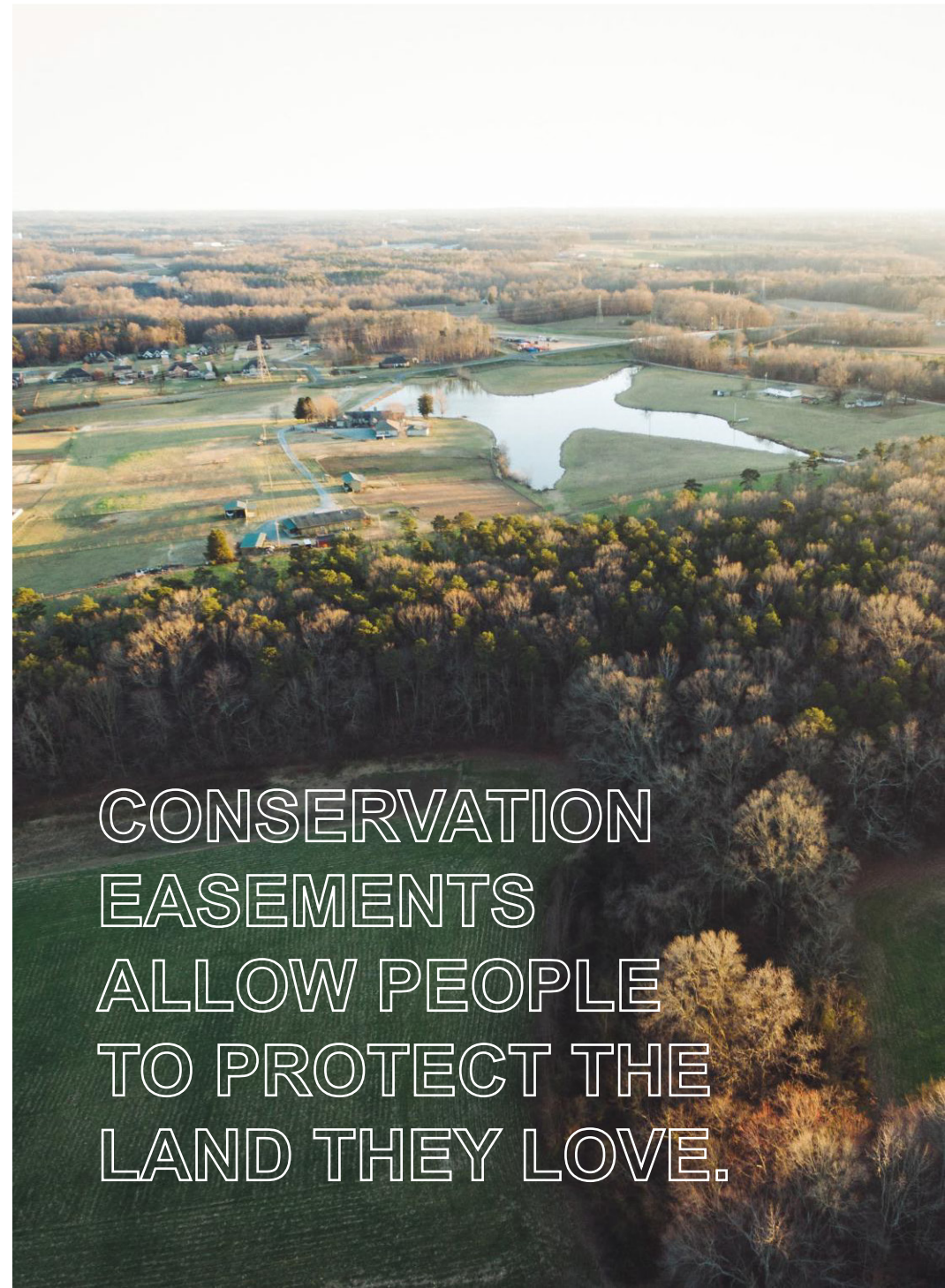
Conservation easements allow people to protect the land they love. They are the number one tool available for protecting privately owned land. Landowners interested in conservation generally have the desire to protect the

natural or productive qualities of their land. The landowner may be interested in conserving special features such as fertile soil, mature forest, wildlife habitat, or a piece of history—even after his or her ownership comes to an end.

Along with conservation, landowners may also be concerned about maintaining their property's economic use and productivity. The economics associated with land ownership are complex, and Bluegrass landowners must also contend with the increasing tax burden associated with property ownership. Various financial incentives to sell or develop are all economic factors that affect land use decisions.

Conservation easements enable landowners to conserve their land for their children and for future generations, while maintaining private ownership and use of their property. Landowners can sell or bequeath property that is encumbered by a conservation easement. In Kentucky, conservation easements are generally held by nonprofit conservation organizations, commonly known as “land trusts” such as BLC. Conservation easements are typically donated, but in rare instances can be purchased. The donation of a conservation easement can potentially have significant tax benefits, which are discussed later in this guidebook.

Kentucky's landscape and its people are incredibly diverse. Because every landowner and every property is unique, each conservation easement agreement is uniquely tailored and designed to meet the site-specific goals of the individual landowner and the conservation easement holder. However, they may not be appropriate for every situation. Conservation easements are permanent, legally-binding agreements that will encumber the property in perpetuity. Landowners considering a conservation easement should consult with family members, professional tax and legal advisors, and a representative of the prospective conservation easement holder (BLC) to determine whether this tool is right to accomplish one's long-term conservation, estate planning, and economic goals.



CONSERVATION
EASEMENTS
ALLOW PEOPLE
TO PROTECT THE
LAND THEY LOVE.



PART 2: FINANCIAL BENEFITS OF CONSERVATION EASEMENTS

Placing a qualified conservation easement on land may provide the landowner with federal tax benefits, as well as possible property tax benefits. In addition, some federal, state or local funding may be available to purchase (or partially purchase) a conservation easement, though these funds are extremely limited. It is important that landowners consult with legal, tax, and conservation professionals for more specific information on how currently available funding programs and tax incentives might work for them.

FEDERAL INCOME TAX IMPLICATIONS

The federal income tax benefits of donating a conservation easement work similarly to other types of charitable contributions. A landowner may be able to deduct up to the full value of the conservation easement from his or her federal income taxes. The easement value is determined by a qualified, independent appraiser.

Conservation easement donations enjoy enhanced deductibility over other charitable contributions; allowing landowners to deduct a greater portion of their Adjusted Gross Income for a greater number of years (carry forward). Consultation with legal and tax professionals is advised to determine current tax and financial implications.

A conservation easement donation can qualify as a charitable contribution under IRS regulations if:

- A. It is granted in perpetuity;
- B. It is granted to a qualified organization, **either**:
 - 1. A nonprofit, 501(c)(3) charitable organization (i.e., a land trust) with a conservation purpose and the means to enforce the conservation easement,
or
 - 2. A local, state or federal governmental entity empowered to hold real property interests;
- C. It achieves at least one of the following conservation purposes:
 - 1. Preserves land for public outdoor recreation or education;
 - 2. Protects relatively natural habitats of fish, wildlife or plants;
 - 3. Preserves open space, either for scenic enjoyment or in keeping with a clearly delineated public policy (such as a local open space plan); **and/or**
 - 4. Preserves historically important land or certified historic structures.

PART 2: FINANCIAL BENEFITS OF CONSERVATION EASEMENTS

For a conservation easement donation to qualify for a federal income tax deduction, the following items need to be submitted to the IRS:

- The conservation easement document, which must include a legally sufficient description of the land;
- A Baseline Documentation Report (including photographs) and description of the property's condition at the time of donation, listing man-made structures, water resources, agricultural and ecological features; and other conservation values;
- A qualified appraisal of the conservation easement prepared by an independent real estate appraiser working for the landowner, completed no more than 60 days prior to the donation and no later than the time the tax return claiming the deduction is filed;
- A subordination agreement, which subordinates any mortgage and all other liens on the property to the terms of the conservation easement, if applicable;
- A mineral remoteness report (if ownership of the surface and minerals are severed and the mineral owners do not waive their surface rights);
- IRS Form 8283 (an attachment to the federal income tax return of anyone claiming charitable contributions of more than \$5,000); and
- Letter of substantiation from the easement holder provided no later than the date of the conservation easement documenting its receipt of the charitable gift.

U.S. tax law requires that the value of the conservation easement be determined by a qualified real-estate appraiser. The monetary value of the conservation easement is, generally speaking, the difference between the value of the property at the current "highest and best use" (without any conservation restrictions) and the value of the property with the restrictions of a conservation easement in place. Often, the value of a conservation easement is greater in areas where development pressure is most intense and lower in more remote areas. Likewise, a conservation easement that prohibits development to a greater extent will have a higher value than an easement that conveys only minimal restrictions.

For example, a tract of land may be worth \$500,000 as a site for potential residential development, but only worth \$300,000 as open space or recreational property, with a conservation easement in place that permanently removes that development potential. In that scenario, the conservation easement that prohibited new construction, further subdivision, and restricted its use to open space would be valued at \$200,000, and the landowner may then be eligible for up to \$200,000 in federal income tax deductions.



PART 2: FINANCIAL BENEFITS OF CONSERVATION EASEMENTS

Under the enhanced conservation easement tax incentive, and if the conservation easement meets all IRS criteria, the landowner may deduct the full value of the conservation easement donation from his or her Adjusted Gross Income (AGI), up to 50% of the landowner's income for the year of the gift. If the donation exceeds this amount in the year of the donation, the excess balance of the donation may be carried forward and subsequently deducted for up to fifteen (15) additional years, subject to the same 50% limitation. For qualified farmers and ranchers, that deduction may be up to 100% of your AGI.

Subject to certain limitations, some of the expenses incurred by a landowner in the donation process, including the cost for appraisals, tax advice, and legal review, may also be tax deductible. There may also be funds available to help with these costs in some cases. Contact Bluegrass Land Conservancy to learn more.

ESTATE TAX IMPLICATIONS

Conservation easements may provide some estate tax relief to landowners and their heirs. First, the donation of an easement can provide for a significant reduction in the taxable value of the estate, thus reducing the taxes owed. To calculate the value of inherited property for estate taxes purposes, federal law requires that the value of the land be based on that property's "highest and best use," instead of actual use. For example, a landowner owns a small family ranch near a growing city that might be more valuable as a residential development. When the landowner dies, taxes on the property will be based on the land's "highest and best use" value, even if the heirs do not intend to develop it, as such.

A conservation easement can place restrictions on the use of a property that limit its "highest and best use." When the property's "highest and best use" is restricted, its value and estate taxes are reduced accordingly. If the landowner in the example above donates a conservation easement on the family ranch that prohibits residential construction, estate taxes due on the property would be based on the land's value as a ranch, rather than as a potential residential development. This can result in significant reductions in estate tax liability.

To realize potential estate tax benefits, landowners should donate the conservation easement during their lifetime, or in a legal will, or they should specify in their will that their heirs or estate executors have the power to donate a conservation easement after their death. Under federal

PART 2: FINANCIAL BENEFITS OF CONSERVATION EASEMENTS

law, in certain circumstances, executors or heirs can donate a conservation easement within a period after a landowner's death and qualify for land value reduction. A landowner intending to convey a conservation easement through their will should contact the potential easement holder (BLC or other qualified entity) to ensure that the organization will accept the donation.

Any potential tax benefit associated with the use of a conservation easement is unique to the terms of the agreement and the landowner's financial situation. Landowners should consult their tax and legal advisors regarding current federal estate tax law and regulations, to determine the potential impact.

LOCAL PROPERTY TAX IMPLICATIONS

Property taxes on agricultural land in Kentucky are often already reduced—based on a property's productivity value, rather than its fair market value. So, generally speaking, a conservation easement may not further reduce property taxes on agricultural land in Kentucky. Conservation easements placed on land not classified as agricultural may reduce property taxes, to the extent that the appraised value of the land being taxed is reduced. It is important to remember that property taxes are determined by local, county tax appraisers and differ from county to county. Consult with your local county appraiser and your legal counsel to determine any potential property tax implications.

****This information does not constitute tax advice. Please contact a tax professional.***





3 ABOUT LAND TRUSTS

PART 3: ABOUT LAND TRUSTS

To qualify for tax benefits, conservation easements must be granted to either a governmental entity empowered to hold real property interests or a charitable organization created for one or more conservation purposes, commonly called a “land trust”. Today there are a number of land trusts working throughout the state to conserve the best of Kentucky’s precious lands and waters, each with a different focus and service area. Bluegrass Land Conservancy is one of these nonprofit land trusts.

WHAT IS A LAND TRUST?

Land trusts are charitable organizations whose mission is land and water conservation. Land trusts protect land for many reasons, including

its natural, recreational, agricultural, scenic, historical, or open space value. They conserve these areas by negotiating private, voluntary agreements with property owners, called conservation easements, or sometimes through outright land purchases. Land trusts have varying conservation objectives—some work in specific geographic areas or concentrate on protecting particular natural habitats or cultural features. All land trusts work in partnership with Kentucky landowners with the long-term conservation goals they have for their own lands. Together, landowners and land trusts conserve Kentucky’s special lands and waters by permanently protecting them from development for the benefit of the people, economy, and wildlife of our state.

WHAT DOES A LAND TRUST DO?

Initially, a land trust works with a landowner to determine whether or not there are substantial conservation resources on a property to merit a conservation easement. The land trust then works to tailor the terms of the easement to protect the land’s conservation values, as well as meet the landowner’s personal goals. Land trusts that accept conservation easements are responsible for monitoring that property and ensuring that the terms of the conservation easement are followed in perpetuity. Representatives from the land trust make scheduled, annual visits to the property to document the condition of the property. If the terms of the conservation easement are violated, the land trust can take legal steps to stop or correct the violation. The land trust is responsible for stewardship of the conservation easement in perpetuity. It is important that a landowner selects an organization that can demonstrate that it has the financial resources and organizational capacity to handle these responsibilities long-term. Because the stewardship obligations are perpetual, many land trusts request financial contributions to help defray some of the costs involved in administering a conservation easement agreement.

LAND TRUST STANDARDS & PRACTICES & ACCREDITATION

Land trusts around the country have established a set of guidelines for the responsible operation and management of a land trust. These Standards & Practices, originally developed in 1989 and most recently updated in 2020, set forth sound

ethical principles by which a land trust should conduct itself in order to be both credible and effective. These Standards & Practices also establish guidelines for conducting a sound program of land conservation, including transactions and stewardship.

Land trusts around the country have generally adopted these Standards & Practices, thereby agreeing to abide by them in their organizational practices. Additionally, some land trusts have chosen to go through the rigorous process of acquiring accreditation through the national Land Trust Accreditation Commission. Voluntary accreditation provides independent verification that land trusts meet the high standards for land conservation, stewardship, and nonprofit management that are set forth in the nationally recognized Land Trust Standards and Practices. Accreditation promotes excellence among land trusts, and provides the public, landowners, and donors with the confidence that these important conserved lands will be protected forever.



- Sound Finances
- Ethical Conduct
- Responsible Governance
- Lasting Stewardship



WHO IS BLUEGRASS LAND CONSERVANCY?

Bluegrass Land Conservancy (BLC) is a community-supported, nonprofit land trust working to protect land in the Bluegrass region of Kentucky. BLC encourages the protection of agriculture, our cultural heritage, wildlife habitats, natural resources, water quality, and scenic open space, in order to sustain a high quality of life.

Established in 1995, BLC is directed by a board of directors made up of landowners, citizens, and businesspeople from across the Bluegrass region. The first accredited land trust in Kentucky, BLC works with landowners to meet their conservation goals and has permanently protected over 35,000 acres in the Bluegrass region.

THE PROCESS:

In most cases, a landowner should expect the process of donating a conservation easement to take at least three months. This assumes all property owners are in agreement about their desires for the future of the land.

1 LANDOWNER AND BLC TAKE A TOUR OF YOUR PROPERTY

On this introductory visit, you and BLC staff will have the opportunity to see the property, discuss the existing conditions, and address your future vision for the property. After the visit, if you wish to pursue an easement, you will send BLC a non-binding letter of intent so that we may present the project to our Land Protection and Stewardship Committee for initial approval.

2 LAND PROTECTION AND STEWARDSHIP COMMITTEE REVIEWS PROJECT PROPOSAL

The Land Protection and Stewardship Committee reviews all potential land protection projects with the staff to determine if it is appropriate for BLC to pursue the easement. If the project appears to meet our conservation mission, and BLC has the capacity in the requested time frame, staff will send you a letter outlining subsequent steps. We do not charge a fee for our services, but we do ask landowners to consider the expenses to the organization (technical reports, easement drafting, materials, travel time, office systems, and so forth) and feel confident in their decision before moving forward.



OUR PROCESS

3 LANDOWNER CONSULTS WITH LEGAL AND TAX ADVISORS

We recommend that all landowners consult with knowledgeable legal and financial professionals that understand the implications and benefits of donating a conservation easement. Doing this early in the process will help you gain a general understanding of the value of your donation. BLC staff is happy to meet with your advisors to share information about conservation easements, as many are unfamiliar with the benefits. Professionals normally included in these discussions are as follows:

Attorneys: A real estate or tax attorney who has experience in drafting or reviewing conservation easements.

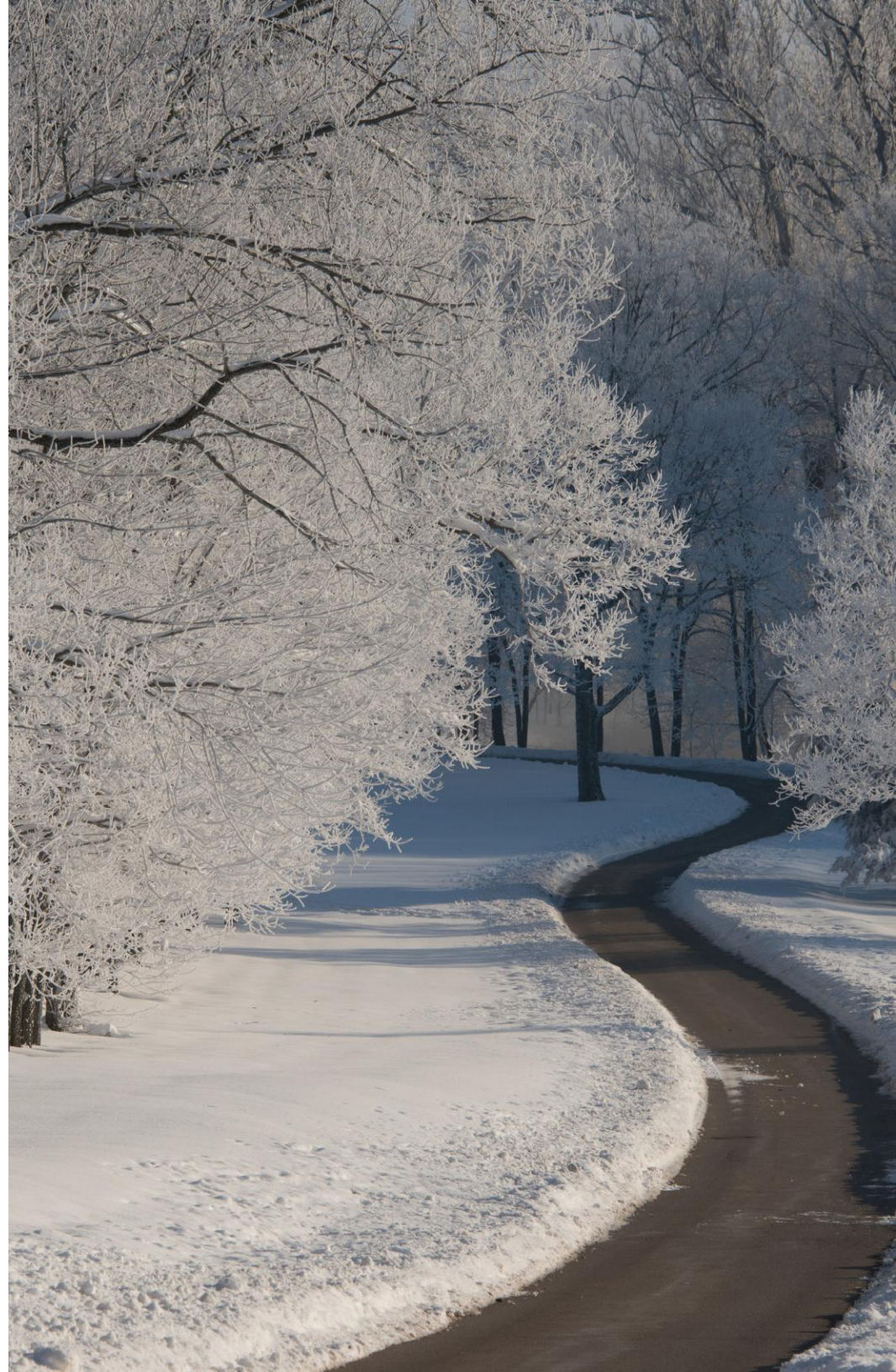
Appraiser: A qualified conservation easement appraisal is required for conservation easements when a landowner intends to apply to the IRS for an income tax deduction.

Accountant: An accountant can provide the landowner with the proper advice on a potential income tax deduction for the donation. The landowner is responsible for properly filing Form 8283 with the IRS to substantiate the gift. BLC will assist your accountant in gathering the necessary documentation to substantiate the gift.

Estate Planner: A conservation easement will likely reduce the value of the land for estate tax purposes therefore the assistance of an estate planner or tax attorney is recommended in order to take maximum advantage of the benefits possible.

4 BLC CREATES A BASELINE DOCUMENTATION REPORT OF THE PROPERTY

Existing conditions of the property must be recorded in a document called the “Baseline Documentation Report” (BDR) at the time of the donation. This is the “present condition of the land” and gives BLC background for continued monitoring. The BDR will include photographs, surveys, and other important information to document the property and its special features. BLC representatives complete this record of the property during site visits with you and those you designate. The BDR will be referenced in the easement document itself, and both the landowner and BLC must approve the BDR for it to be valid.



5 BLC DUE DILIGENCE AND DRAFTING

BLC will work with our outside counsel to gather proof of good title to identify the owner of the land and asks that your attorney review the legal description of the land intended to be included in the conservation easement. If there are any liens or mortgages that exist on the property, subordination is required. We will assist you by explaining to the lender the benefit of the easement to the community at large and the charitable purpose of the donation.

6 LANDOWNER REVIEWS DRAFT CONSERVATION EASEMENT WITH LEGAL COUNSEL

BLC'S counsel will prepare a draft conservation easement that is intended to reflect your slated objectives for the property and meet the IRS requirements of a conservation easement donation. As you review the draft document with your attorney, revisions are typically made to further clarify your objectives and wishes. We will work together to carefully negotiate the document to ensure our mutual satisfaction and understanding of the long-term implications of the conservation easement.

7 LANDOWNER HIRES A QUALIFIED APPRAISER IF A DEDUCTION IS CONTEMPLATED

An accurate qualified conservation easement appraisal is key to understanding what the conservation easement is worth as a charitable organization donation to BLC, and thus what the tax benefits may be to you and your family. As the property owner, it is your responsibility to obtain this appraisal. The final appraisal will be based on the restrictions placed on the property in the conservation easement document. Please coordinate the timing of the appraisal with BLC staff, as there are specific rules for deductions. **YOU MUST USE A QUALIFIED CONSERVATION EASEMENT APPRAISER AS DETERMINED BY THE IRS.** If you are not interested in pursuing a tax deduction related to your easement, an appraisal is not required.

8 FORMAL APPROVAL OF CONSERVATION EASEMENT

The Board of Directors of BLC must approve acceptance of the final conservation easement terms.

9 CONSERVATION EASEMENT IS RECORDED

After a final review of the documents, you and BLC will sign the conservation easement document and the final Baseline Documentation Report. BLC will record the conservation easement in the Clerk's office of the county wherein the property is located. Agreements on stewardship fund contributions are typically submitted at this time.

10 LANDOWNER SUBMITS FORM 8283 TO THE IRS

You and BLC work with your accountant to properly complete and file the IRS Form 8283 with your income tax return for the year in which the easement was donated. BLC and the appraiser must sign Form 8283 before it is submitted to the IRS.

11 BLC STEWARDSHIP BEGINS

From this point on, BLC is responsible for annually monitoring your property to ensure compliance with your conservation easement. If a property is transferred, a representative of BLC will contact the new property owner to review the stewardship responsibilities as set forth in the easement. This annual monitoring visit is a wonderful opportunity to connect with our staff, answer questions, and talk about other conservation practices available to landowners.



Does every conservation easement qualify for an income tax deduction?

No. To qualify as a charitable contribution, conservation easement donation must:

- Be perpetual, meaning continue forever;
- Be donated to a qualified organization (a land trust or government entity); and
- Be donated exclusively for recognized “conservation purposes,” as set out in the Internal Revenue Code.

Does a conservation easement have to be perpetual?

For the donation to qualify for income and estate tax benefits, the conservation easement must be perpetual and legally binding on all future landowners.

Can conservation easements be purchased?

Yes, conservation easements can be purchased, though this is less often the case in Kentucky, as funding is very limited. There are a handful of federal, state, and local funding sources that can be utilized to purchase easements on farmland or natural lands of exceptional quality or lands that meet specific conservation metrics. Purchased conservation easements are sometimes referred to as “PDRs” which stands for “purchase of development rights.” If funding is available to purchase an easement, the amount available can be less than the full value of the conservation easement. In such cases, the transaction may qualify as a “bargain sale” that may result in a potential tax benefit to the landowner. The amount of the benefit (tax deduction) generally will be the full appraised value of the conservation easement, less the amount paid to the landowner. Conservation easements are valued by independent, qualified, and licensed appraisers.

What are the “conservation purposes” recognized by the Internal Revenue Code?

The Internal Revenue Code Section 170(h) requires that the conservation easement donation meet one or more of the following conservation purposes:

- Preserves land for public recreation or education;
- Protects relatively natural habitats of fish, wildlife or plants or similar ecosystems;
- Preserves open space—including farms, ranches, pasture land or forests—either for public scenic enjoyment or in keeping with a clearly



5 FREQUENTLY ASKED QUESTIONS ABOUT CONSERVATION EASEMENTS

PART 5: FREQUENTLY ASKED QUESTIONS

delineated federal, state, or local governmental policy; or

- Preserves historically important land or certified historic structures.

A conservation easement seeking to qualify for federal tax benefits must meet at least one, but not necessarily all, of these recognized purposes. The conservation purpose of most conservation easement donations in Kentucky is derived from the protection of open space or wildlife habitat.

Can I still sell my property?

Yes. Property with a conservation easement can be bought, sold, and inherited. However, once the conservation easement is in place, it remains tied to the land and binds all present and future owners to its terms and restrictions. Some easements allow for a limited number of future divisions as well.

Does a conservation easement grant the public the right to access my property?

No. Landowners retain control of access to their property. There is no requirement that they allow access to specific groups of the general public in their conservation easement agreement, but the landowner may do so if they wish.

What if the property is owned by more than one person?

All owners or partial owners of a property must agree to the terms of the conservation easement before it can be legally granted.

Can I still build on my property?

In most cases, the landowner retains specified development rights in a conservation easement agreement. The areas reserved for development are generally limited in scope, in order to adequately preserve the conservation values set forth in the easement. For example, a conservation easement protecting a farm or ranch may allow some construction, including additional residences and other structures associated with agricultural operations, such as barns or stables. A conservation easement will typically specify the location and/or size of additional residences or other allowed structural development so as to not compromise the conservation values of the property. The building restrictions set forth in the conservation easement will remain binding on future landowners as well.

PART 5: FREQUENTLY ASKED QUESTIONS

What if my property is mortgaged?

If land is encumbered by a deed of trust, mortgage or other lien, the lien must be subordinated to the terms of the conservation easement so that the conservation easement will remain in perpetuity. Subordination of liens is required in order for the donation of the conservation easement to qualify for a federal tax benefit. Under a subordination agreement, the lienholder agrees to follow the terms of the conservation easement in the event of foreclosure.

Where are conservation easements recorded?

Like a deed or other types of easements, conservation easement documents are recorded with other land records in the Clerk's office in the county in which the property exists.

Can conservation easements be amended or terminated?

Because conservation easements qualifying for federal tax benefits are required to be permanent, landowners should assume that it will not be possible to terminate a conservation easement. Perpetual conservation easements are more than just private contracts between the owner of the land and the holder of the easement, they are legal agreements and modifying them is not done lightly. Easement terminations and amendments are extremely rare. A termination requires court approval, where the judge will weigh the conservation intent of the easement grantor and the interests of the public.

Can a conservation easement be donated by will or after the death of a landowner?

Yes. Before finalizing the estate documents, the landowner should contact the intended conservation easement holder before conveying the conservation easement by will, to ensure that the terms of the easement are agreeable and the organization will accept the donation. If the easement qualifies under federal tax law, its value is subtracted from the landowner's taxable estate, reducing estate taxes for heirs.

Also under federal law, the executor or heirs of an estate can donate a qualified conservation easement after the death of the landowner, even if the landowner's will does not include the donation of such an easement. A landowner who might want their executor or heirs to be able to make this donation can easily clarify the intent on this matter by stating in their will that the executor and heirs have this power.

What are the costs of donating a conservation easement?

Conservation easements must be carefully drafted to allow landowners to adapt and expand their farming and land management practices to adjust to newfound knowledge and changing economic conditions. Easement preparation requires the input of many professionals. Landowners should anticipate some expenses in donating an easement including the costs of lawyers, accountants, appraisers, and other advisors, as well as a stewardship contribution to the easement holder.

To ensure the easement holding organization is always capable of meeting the short and long-term expenses of keeping the promise to you to protect your land forever, many will ask easement donors to contribute to a Stewardship Fund at the time of easement closing. The Stewardship Fund is a separate account that is used solely to monitor and enforce the terms of our conservation easements. Monitoring and enforcing conservation easements is a serious commitment for a land trust as subsequent landowners are not always interested in upholding easement terms.

How is a conservation easement enforced?

The land trust or public entity that holds the conservation easement bears the responsibility of enforcing its terms, in perpetuity. Typically, this means that the conservation easement holder will schedule a property visit with the landowner at least once a year to document any changed uses of the property, monitor the conservation values, and ensure that the terms of the conservation easement are being upheld. Unless the landowner and conservation easement holder specifically agree to give enforcement rights to a third party, no outside group can enforce the terms of a conservation easement (other than possibly the Attorney General).

The holder of the easement will usually request funds for a stewardship endowment at the time that the easement is executed. These funds are used for covering costs associated with monitoring and enforcement of the conservation easement in perpetuity. Landowner donated stewardship contributions made to a nonprofit land trust organization will typically qualify as a charitable gift for tax purposes.



6

LANDOWNER
STORIES

Stone Farm

PART 6: LANDOWNER STORIES

ARTHUR & STACI HANCOCK

Since Arthur Hancock purchased his first farm in the 1970s, he has seen many of the neighboring farms change hands, some being sold off as smaller parcels. He could have done the same, and for a big profit, but he had other ideas. The farm is part of their family history and the family wanted to keep it safe for the future.

**“IF YOU TAKE CARE OF THE LAND,
THE LAND WILL TAKE CARE OF YOU.”**

So over the past five decades, Arthur has invested in the land. The rolling fields, dotted with patches of woodlands and meandering creeks, are home to the Hancocks' thoroughbred horses and beef cattle. They also produce high quality hay, corn, and soybeans.

“The kids and I have been talking about the possibility of conserving the farm for several years now. Staci and I realized that if you don't conserve your land, who will? Future generations will be able to live on the land and farm it in a way that makes sense to them,” Arthur said. “And even if they want to sell it, the property will always be protected from development.”

“Sometimes farmers may think that by conserving your land, you can't do anything with it,” remarked Arthur. “That's not the case. These conservation agreements are flexible and you can farm and change your farming practices. You can build related barns and farm buildings. I really don't think this hampers farming at all. It protects farming.”

Conservation runs in the family. Arthur and Staci's family isn't the only one in Bourbon County interested in making sure their farm stays a farm. Arthur's siblings, Seth, Dell, and Clay Hancock, conserved their equine and cattle operation on Claiborne Farm, just a few miles down the road, in 2011.



THE PENN FAMILY

Eighty years ago, John Penn's parents bought their first farm on Russell Cave Road, in Lexington, and the family has been farming ever since. John grew up tilling the fields, taking care of livestock, and raising horses.

Horses have been part of the family legacy—not necessary by choice initially. As John tells it, his family actually got their start with horses when they purchased the original farm “and they had a fellow from Oklahoma that had horses on it, so they ended up boarding for him. Then he left them with the horses and the bills, which put them in the horse business. This was back around 1935 or so—that’s how our family got into horses.”

John and his wife, Kris, have three grown children, all of whom were raised on the farm while learning the skills as well as the amount of hard work required to keep things running. John describes his teaching as a mixture of giving the kids chores and the natural osmosis of farm life.

CONSERVING THE WAY OF LIFE, THE LAND

For the Penns, conserving their family farm made sense as a way to ensure their family legacy remained intact. Knowing their farm would be transferring to their children

had a lot to do with why Kris and John wanted to conserve their land. John, the oldest son, is studying medicine at the University of Kentucky—although he also owns some mares with his dad, which has brought in a bit of income from a nice runner they bred together. Their second son, Alex, is taking on more responsibility for the family farm. While Katie, the Penns’ youngest and only daughter, according to her father “likes horses,” and has other interests.



John also stresses that “from a strictly economic standpoint, if you have the income, or plan to have the income, then conservation is an excellent way to pay for expansion, infrastructure—or college education, or anything that your family needs. Typically cash flow on a farm is so poor relative to investment that you’re always cash poor, so it really helps that end of things.”

In fact, when they conserved their land, their tax savings even allowed Kris and John to expand their farm by purchasing an additional parcel along North Middleton Road.

It’s that practical, grounded, “let’s make it work” attitude that has served the Penn family so well over the years. Now home to some of the best Bluegrass hay in the world, coupled with world-class horses and the gently rolling hills to go with it, the Penns have conserved more than a spectacular farm. They have conserved the love of farming and have passed it on to the next generation, right here in the Bluegrass, and as John says, “We’ve never looked back.”

JIM & GAYLE KANE

Jim and Gayle Kane's 343-acre farm is located in the Cooper's Run National Historic District, and features rolling hills and meadows, beautiful woodlands, and a diversity of wildlife habitat. Home to the Kane family, as well as hundreds of Black Angus cattle and a variety of wildlife, this farm is indeed special.

"I came to this area because I realized how important open land is to me, my family, and to the place I call home," remarked Jim. A businessman by day and always a farmer on the side, Jim came to Kentucky in 1962. Within ten years he had settled the family on a Harrison County farm, where he planned to spend the rest of his days enjoying the panoramic views and peacefully quiet countryside.

But by the time Jim was able to retire from business, the family farm had been surrounded by developments, traffic, and noise. After three decades on their Harrison County land, the Kanes reluctantly began looking for a new home.

As soon as they walked the land, the Kanes knew "this was it." But, it didn't take long, however, until the Kanes were buying the land around them—even small, pricey lots from developers—in order to save their farm, their home from suffering the same development fate as their previous Harrison County land.

Jim approached the decision to conserve the family farm much as he does any business decision – with decisiveness. He'd lost one family farm to encroaching development and now had worked tirelessly to build and secure another one. Jim and Gayle realized that protecting the land would become an excellent retirement and estate planning tool. By taking advantage of federal income tax deductions for conserving their land, the Kanes were able to reduce the tax burden related to their retirement plans.

"I wanted to make sure that what happened to our first farm, didn't happen to this farm," remarked Jim, adding "we need places like this in the future."

"EACH COMMUNITY WILL NEED A BIT OF QUIET OPEN SPACE TO TREASURE. WE'LL NEED PLACES TO GROW OUR FOOD TOO. THIS LAND CAN GROW A LOT."

The Kanes have a big, close-knit family—eight children and many grandchildren. As part of their conservation plan, the Kanes will be able to build future structures and rural businesses which are compatible with the land. As Jim and Gayle watch the sun set and the blue heron flying low across the farm's fields then making its way up Cooper's Run, they comment on what it means to conserve their family's land. "Our kids will always have a place that they can look to, and know that their legacy is part of the fabric of the community. Whether or not they choose to live here, they can come back and see a farm or woods," remarked Gayle. "As a family, we now have a sense of pride knowing that our land is no longer at risk of massive development."

"Everything seemed to come together for a reason," Jim said before adding, "once the land is out of your hands, you have no idea what someone else may do with it," so "it makes a lot of sense to preserve the picturesque setting, the quietness, and the wildlife," while you can.



DR. LIDA OXNARD

**“WE NEED TO LOOK OUT FOR MOTHER NATURE,
OR WE’RE NOT GOING TO BE ABLE TO
TAKE CARE OF PEOPLE.”**

Growing up in rural Pennsylvania, Lida Oxnard learned to appreciate the environment at a young age. Her parents consistently stressed the importance of being responsible stewards of the land and caring for the planet with respect. In 1979, after the Three Mile Island accident happened, a partial meltdown of reactor number 2 of Three Mile Island Nuclear Generating Station in Dauphin County, Pennsylvania, she and her late husband packed up and headed to Ashland, Kentucky. From there, she attended medical school at the University of Kentucky and focused on becoming a general practitioner. Caring for others came naturally to her, pursuing a career in medicine has been an ideal way for her to give back to her community.

Today, Dr. Oxnard lives in Nelson County and works part-time as a doctor for the Sisters of Loretto, Sister of Nazareth, and Hardin Memorial Hospital urgent treatment centers bringing her therapy dog a Goldendoodle named Rosie, along to Loretto infirmary.



Dr. Oxnard’s 44-acre property in southeastern Nelson County, known as Post Oak Farm, is a beautiful piece of scenic land, filled with precious natural resources and rich agricultural soils. Monks Creek, a blueline stream and tributary to the Rolling Fork River, flows through the property, which is situated within walking distance of The Abbey of Gethsemani, the oldest monastery still operating in the United States, which consists of over 2,000 acres of land.

Dr. Oxnard has an infectious laugh and boundless energy as she traipses across her land. Her “new gardening,” she explains as we walk through the rolling hills and dense wooded areas, has become taking care of the native trees, grasses, and wildflowers on her property. With the help of her family she attempts to return native plants to her property and remove non-native species. “Doing her part” extends further than to protecting her land, as she and her family are in the process of building an energy-efficient home, complete with solar energy panels that will provide enough power for her needs. She is a bold conservationist and understands the importance of saving our precious resources before they have all disappeared. When contemplating the future landscape of Kentucky, she feels a sense of peace knowing that this special corner of the world will be protected in perpetuity through a conservation easement with Bluegrass Land Conservancy.

DR. RHONDA CORNUM

Dr. Rhonda Cornum has spent the past decade building Munroc Farm, piece by piece, lovingly restoring a log cabin, and keeping the property’s historic stone home in its original character.

Rhonda is not one to sit idle, and her idea of retirement includes raising horses, grass fed beef, and bourbon red turkeys, while caring for the farm’s incredible agricultural soils, quiet woodlands, and misty meadows. Her passion for agriculture also extends to breeding and training field champion and renowned Gordon Setters, as part of her Munroc Farm Kennel. By conserving her land, Rhonda is helping to lead the way, joining more than 100 other landowners in Bluegrass Country who have conserved their land.

**“WE NEED TO MAKE SURE THERE WILL
ALWAYS BE LOCAL FOOD AND PLACES
LIKE THIS, AND THE ONLY WAY TO
ENSURE THAT IS TO PROTECT IT.”**



REN & SCOTT HANKLA

For brothers Ren and Scott Hankla, honoring the memory of their father was one of the most important considerations that they made when deciding to permanently protect the family farm that they inherited from him.

“PRESERVING OUR FATHER’S MEMORY AND LEGACY IS ONE OF THE REASONS WE CONSERVED OUR LAND.”

Their father was born in the farm’s historic Hankla-Walker House and raised on the land. He left after high school and eventually became part-owner of Farmers Supply in Danville, returning to full-time farming in mid-life.

“Like most Kentucky farmers, he faced years of demanding physical work in a career that could often offer little security and limited control of production costs, markets, or profits. And yet,” share the brothers, “he remained a farmer the rest of his life because he loved the land and the lifestyle. He never missed a single day of working the farm until he was in his mid-eighties.”

Over the last two centuries, the farm’s agricultural operations have been diverse. Cattle, hogs, horses, sheep, chickens, barley, oats, wheat, rye, tobacco, hemp, corn, hay, and silage have all been raised on the land. Today, about half of the farm’s 311 acres are in woodlands and the remainder in warm and cool season grasses under the USDA’s Conservation Reserve Program with a few acres in hay production.

The Hankla family’s tie to this land all began with their ancestor Hans Michael Goodnight, who made an “actual settlement” in 1779 and then purchased 400 acres for 160 pounds from the Commonwealth of Virginia. Goodnight, his wife Mary, and their nine children, moved from North Carolina to Kentucky and settled near Harbeson’s Station, now known as Perryville.

Nearly 100 years after Goodnight’s settlement, one of the fiercest Civil War battles fought in Kentucky took place on this farm and the Hankla-Walker House, circa 1832, served as a hospital for the wounded Confederate troops and still stands on the farm today. The land itself has changed little since bearing witness to this important battle in American history.

Ren and Scott are now the seventh generation to own their family’s land in Boyle County. From hours spent as little boys floating down the creek on the small boat their dad made them under big, overhanging sycamores on hot summer days to recent “Farm Week” reunions where everyone works and plays together in old-fashioned barn raisings, the farm holds some of their family’s best memories and experiences.

The brothers believe though that the land will eventually transfer out of the family, and that belief became another significant reason for them to conserve it. “This takes the pressure off our children, and whether they keep it or sell it, they know that our wish for the farm to be protected into the future will be carried out,” Ren and Scott say, before adding, “We wanted to permanently conserve the land for our father and our other ancestors’ sake.

We believe future generations will deeply appreciate this unique agricultural and historic legacy. No matter who owns this land in the future, it can remain bountiful and productive farmland, and its rich American history will be preserved.”



RJ CORMAN

An entrepreneur who built a backhoe business into a multimillion-dollar railroad and related service company, as the founder and sole owner of R.J. Corman Railroad Group, Richard Jay “Rick” Corman oversaw the growth of his company which employed over 1,100 people in 22 states.

Throughout this extraordinary expansion of his business, Rick was known as someone who cared about people—who cherished life and the health of the community and his beloved farm. The farm was a special place for Mr. Corman and a place where thousands of guests celebrated the Fourth of July, enjoying the evening fireworks and summer picnic.

Rick grew up in Jessamine County and through hard work, vision, and an amazingly generous spirit, became one of the county’s most beloved community members. Now his memory will live on, forever, with his protection of his farm.

Sadly, at the age of 45, Rick was diagnosed with a rare and serious cancer. After courageously battling the cancer for 12 and a half years, he succumbed to the disease in 2013 and the community suffered a tremendous loss. Yet his presence continues to live on in the lands he owned and the hearts of the many that were impacted by his generosity and goodwill.



That love of community, and the welcoming spirit he had, took another step forward when his 1,200 acre farm was conserved in partnership with Bluegrass Land Conservancy, after his lifetime. Prior to his death, Mr. Corman had stipulated in his will, that his farm should be conserved as a working farm and not be subject to sprawling, haphazard development.



Now, thanks to his continued vision, his farm is conserved and a beautiful stretch of the Jessamine Creek will be conserved along with it. The creek is considered to be of exceptional quality, and is home to a wide range of plant and animal species.

For Mr. Corman’s family, conserving his farm after his passing is offering them peace of mind. When asked what this meant to her, April Corman Colyer, Mr. Corman’s daughter, shared, “It’s nice to know, that now his farm, just like he wanted it to be, will be conserved for my children, their children, and many generations to come.”

“My dad loved this farm for so many reasons,” continued April. “It was the place he called home and raised my brother, sister, and me; the place he would spend his Saturdays running, relaxing, and simply admiring the beautiful Jessamine County.

His dream that this farm remain a farm, and a special place for his family, employees, and the community that he loved, will now live on.



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TAKING CARE OF THE
LAND, EVERY DAY.

*To all those who conserve or own protected land,
we are grateful and inspired. Thank you.*