

The How-To of Conservation Agreements

By Bob Barnett

I hear lots of people say they don't like gravel pits. Other people complain that our farmland should be protected from creeping suburban tract housing. When I meet people who own farmland or woodlots and who don't like development, I ask how big their property is. My next question is, "Well how would you like an income tax receipt for \$150,000 for never having a gravel pit and ensuring your farmland is kept for farming." They usually ask, "How could you do that?"

A conservation agreement, under provincial legislation, allows a landowner to restrict all future users from land uses they don't want by placing covenants on title. Since 1997, Escarpment Biosphere Conservancy (EBC) has been coordinating the applicable provincial and federal government programs to help families protect their own legacy, the land they care for, and also benefit from substantial income tax savings. Our charitable land trust has helped landowners place "conservation agreements" with such covenants on 45 properties covering almost 4,000 acres. One landowner, Gunter Springer, from Chatsworth has protected 10 properties with 900 acres. Now he is the vice-chair of our charity's board.

Tax Incentives

Environment Canada has designed an "EcoGift" program to provide income tax incentives to help protect Canada's special places. Restricting future uses will reduce your land value today, reduce capital gain taxes and make it easier to pass your land to your children.



▲ Protected! Gunter Springer's Hamilton Creek property near Holland Centre. PHOTO BY BOB BARNETT.

EBC protects a new property about once a month. Our reserves range from Caledon to Manitoulin and from Goderich to Mattawa. Our conservation agreements cover properties usually sized from 25 to 403

acres and include farmland, woodlots, plantations and wetlands. The \$150,000 example, above, was based on a 100-acre farm in Grey County, but our receipts have ranged up to \$600,000 for a 32-acre property.

Please do not hesitate to contact me for a preliminary discussion.

Bob Barnett of Escarpment Biosphere Conservancy can be reached at 888.815.9575 or through www.escarpment.ca.

How to Keep Your Woodlot or Farmland the Way It Is

1. Check out escarpment.ca for information about our land trust and examples, but give me a call at 888-815-9575 to discuss your project. I can give you a broad outline over the phone.
2. Invite us to visit your property. At that meeting we can discuss the ecological features of your property and how restrictions might be placed on some "zones" you choose to establish like protection on farmland, but not on others, like the residential zone surrounding your house, road and barn which usually remain virtually unencumbered. We'd also discuss the steps, timing, and probable receipt value.
3. You discuss the project with family and your advisors. We often attend such meetings to answer technical questions.
4. Together, we draft up the wording of the restrictions you wish to place on title. You choose from a potential menu of 24 items and we modify the wording to suit you and your family. Some people choose to specify organic farming, prohibit hunting or include a "dark sky" clause, but every agreement is different. Every agreement allows EBC to check that the current owner is following the rules.
5. We ask for a valuation of the restrictions from a professional appraiser who will meet the needs of Environment Canada. If you are satisfied with that value, we proceed and finalize the appraisal.
6. We submit your project to Environment Canada for their review of the ecological features and valuation.
7. With those approvals in hand, you ask your lawyer to work with EBC's lawyer to prepare documents for registration of the agreement.
8. You sign the documents and the lawyers register the agreement. EBC issues you an income tax receipt for the appraised and approved value.
9. You can use your income tax receipt over as many as 10 years until it's used up. It reduces your taxes by 40 to 46 per cent of the donation value and you will be exempt from capital gain tax on the donation.
10. You will know that EBC will monitor the property from time to time at good times for you or the future owner to ensure the agreement is being honoured. If owners disobey your agreement, EBC has the power under provincial legislation to restore the property. — *Bob Barnett*