



CONSERVATION LEGACY

# Conservation Easements

## Choosing a Land Trust

BY LORIE WOODWARD CANTU

Once landowners determine that a conservation easement is the right tool for their land, they have to choose a land trust to hold the easement.

“By definition, a land trust is a 501(c)3 non-profit, non-governmental organization organized for the purpose of land conservation and deemed to be qualified to hold a conservation easement,” said Blair Fitzsimons, executive director of the Texas Agricultural Land Trust (TALT). “In application, a land trust is a perpetual partner that ensures the landowner’s intent is carried out. A land trust acts as the guardian of the landowner’s conservation flame.”

A perpetual relationship should not be entered into lightly, she said.

“While it’s a huge decision to put a perpetual restriction on your property, choosing the organization to uphold that restriction forever is equally important,” Fitzsimons said. “My best advice to landowners is to do your due diligence, and ask every hard question that enters your mind.”

As landowners begin their search for the right land trust, it’s important to understand that every land trust is different, she said.

“Every well-organized land trust is mission driven,” she said. “There is no such thing as one-size-fits-all.” Some are set up to protect endangered species habitat or water resources. Others conserve places of natural beauty or historical significance. TALT conserves productive, open-space farm and ranch land.

“Landowners need to determine the ultimate objective for conserving their land, and select the land trust that is best suited to help them reach that goal,” Fitzsimons said. To determine what land trusts operate in Texas, landowners can consult the Texas Land Trust Council ([www.texaslandtrust-council.org](http://www.texaslandtrust-council.org)). And, for more general information on the operation of land trusts, the National Land Trust Alliance (<http://www.landtrustalliance.org>) is a valuable resource.

Once landowners find a land trust or trusts that may meet their needs on paper, it’s time to start a direct conversation.

Fitzsimons, whose family has enacted a

conservation easement on their property, suggests, as a starting point, that landowners ask the following:

- What is the land trust’s mission, and how does the organization carry it out?
- How long has the land trust operated?
- How many acres has it conserved?
- How many easements does it hold?
- Who are the staff members, and what are their backgrounds and qualifications?
- How is the land trust governed?
- Does it operate “transparently?”
- Who are the board of directors, and what are their backgrounds and qualifications?
- What is the board members connection to the land trust’s mission?
- Do all of the directors support the land trust financially?
- What is the likelihood that the land trust’s mission might change as directors or staff members change?
- How does the land trust monitor properties? How often?

**Editor’s Note:** This is the second installment in a six-part series focusing on conservation easements as a tool that can help keep ranches intact and facilitate their passage to the next generation of land stewards. The series has been developed in collaboration with the Texas Agricultural Land Trust (TALT). Created by landowners for landowners, TALT’s mission is to protect private working lands, thus conserving Texas’ heritage of wide open spaces. For additional information about TALT, see the organization’s website at [www.txaglandtrust.org](http://www.txaglandtrust.org).



- Does the land trust take a “hands-on” or “hands-off” approach to the everyday management of the property?
- Does the land trust employ staff experts to address natural resource concerns, or does it act as clearinghouse, referring landowners to trusted experts in the field?
- How strong and diverse is the land trust’s donor base?
- How viable is the organization from a financial standpoint?
- If the land trust were to fail, what other land trust is its designated replacement?

In addition, it is important for landowners to request a copy of the land trust’s annual report, audited financials, and either the land trust’s conservation easement template or a redacted version of an existing conservation easement, she said. Plus, it’s a good idea to visit with other landowners who have worked with the land trust and to attend a board meeting and meet as many of the directors, as possible.

“The board of directors hires and fires the executive director, so ultimately they are responsible for the implementation of the mission,” Fitzsimons said. “While directors and personnel will change, landowners should feel comfortable that the leaders will leave a strong, well-run organization in place.”

Of course, no one enters into a relationship with a land trust expecting the organization to fail, but, as the economic downturn has demonstrated, it is a possibility that should be considered and planned for.

“While the Texas land trust community escaped relatively unscathed, several land trusts in other parts of the country have been shuttered because of the economic downturn,” Fitzsimons said. Landowners negotiating a conservation easement should include a provision that will allow them to have a say in selecting another land trust should it become necessary, she said.

After all of the analysis and evaluation, choosing a land trust comes down to a unique, individualized relationship between the landowner and the organization.

“This entire business is built on trust,” Fitzsimons said. “In a way, it’s like a marriage because it’s hard to say exactly what makes the relationship work, but when you find the right partner, you know it.”

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