



# Conservation Easements

## Information & FAQs

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Hawaiian Islands Land Trust's mission is to protect and steward the lands that sustain Hawai'i, and to perpetuate Hawaiian values by connecting people with 'āina

### **What is a Conservation Easement?**

A conservation easement is a voluntary, legal agreement between a landowner and a qualified conservation land trust or government agency that permanently limits uses of the land in order to protect the specific conservation values of a property. Conservation easements may serve a variety of conservation purposes and may be called by specific names according to the primary resource they protect (i.e., conservation easement, agricultural easement, cultural preservation easement, etc.). In many cases, a single conservation easement may have multiple conservation purposes including historic, cultural, scenic, agricultural, natural ecosystems, and/or forest resources. A conservation easement should restrict activities to the degree necessary to protect the significant conservation, historic, and/or agricultural values of a property, and contain restrictions that the easement holder is capable of monitoring and enforcing. Conservation easements are flexible documents tailored specifically for each property to meet the conservation goals of the landowner and public benefit served. Conservation easements can cover entire parcel(s) or portions of a parcel.

A conservation easement provides continued private ownership and use of the protected land, in accordance with the purposes and restrictions of the easement. Landowners maintain the ability to sell their land or pass it on to heirs. The conservation easement 'runs with the land,' meaning that even if the land is inherited or sold, the conservation easement restrictions remain in place in perpetuity or forever.

Some government funding programs such as the State of Hawai'i, Department of Land and Natural Resources, Legacy Land Conservation Program, require conservation easements as part of the funding requirements for publicly funded conservation purchases where the future owner will be a nonprofit organization.

### **What is an Agricultural Conservation Easement?**

An agricultural conservation easement is a type of conservation easement that protects or primarily protects the agricultural values of land. It is a legal agreement between a landowner and a land trust or government agency that permanently limits at least a portion of a property to agricultural use in perpetuity. Agricultural conservation easements are used by landowners to keep land available for agriculture forever, and protect resources such as productive soil, ground and surface water, native habitat, historic sites, and scenic views. Easements can protect multiple agricultural and conservation values of land.

### **How Can Agricultural Conservation Easements Benefit Landowners?**

- **Funding:** Both public and private funds are available to assist land trusts in purchasing conservation easements from landowners with lands of conservation and/or agricultural value whose goals for their properties are in alignment with the goals of the public and/or private funders.
- **Legacy:** Conservation easements allow landowners of conservation and agricultural lands to set in stone today their vision for how the lands should be used in perpetuity. For family owned ranches and farms, agricultural conservation easements also provide a mechanism for their family's value system and family legacy to be perpetuated. Keeping agricultural land permanently in agriculture also has the additional benefit of preserving the rural and agricultural character and fabric of a community.
- **Hawai'i Sustainability:** Agricultural easements directly address Hawai'i's staggering dependence on imported foods, and help move Hawai'i toward a more independent future of locally grown healthy food. Landowners conserving their agricultural lands often feel proud of their contribution toward Hawai'i's goal of greater food independence.

### **What is the Role of the Land Trust or Government Agency that "Holds" the Agricultural Conservation Easement?**

A conservation easement is granted by the landowner "Grantor" to the land trust or government agency "Grantee". The Grantee is typically referred to as the "Holder" of the conservation easement as they "hold" the property rights that the Landowner granted. The Holder is responsible for annually monitoring the property to ensure compliance with the terms of the conservation easement, and enforcing the restrictions set forth in the conservation easement if there are violations. In practice, what this typically looks like is someone from the land trust will contact the landowner once a year to schedule a site visit. The land trust employee and landowner (or his/her representative) will walk the property together taking photos and discussing any changes made over the year, and any future plans. The land trust employee will then write a monitoring report and provide a copy to the landowner. If there is ever use of the property that does not comply with the conservation easement, the land trust will notify the landowner and take the necessary steps to get the landowner to return to compliance. Sometimes, there is use of the property by a third party that does not comply with the conservation easement. For example, an adjacent landowner trespasses and builds a road on the property restricted by a conservation easement. Or, an adjacent landowner sprays pesticide that blows over to the property which is restricted to organic or regenerative farming by an agricultural conservation easement. In those cases, the landowner and land trust will work together to address the violation.