

The Impacts of Conservation Easements on Property Taxes in Wisconsin

A report by:

Ezra Meyer

Master's Candidate, University of Wisconsin - Madison
Department of Urban and Regional Planning

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Gathering Waters Conservancy
<http://www.gatheringwaters.org>

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*The Impacts of Conservation Easements on
Property Taxes in Wisconsin*

Executive Summary

This report summarizes the findings of a research project undertaken by Gathering Waters Conservancy in the spring of 2001. The main objective of the project was to assess the impacts of conservation easements held by Wisconsin land trusts on assessed values and property taxes.

This project was initiated in response to a number of communications from landowners and land trust staff around the state who believed that local assessors were not taking easements into account when determining property tax assessments for protected properties.

The findings summarized in this report come from responses to a direct-mail survey sent by Gathering Waters Conservancy and partner land trusts to 109 conservation easement landowners across the state of Wisconsin. Of the 109 surveys that were sent out, 58 were returned resulting in a fifty-three percent response rate.

In general, it appears that conservation easements tend not to be considered by local assessors as required under state law (*Wisconsin Statutes Section 70.32*) or, if they are being considered, that they do not result in lower tax assessments despite the limitations they impose on potential development of the protected land. For example, only one-third of survey respondents reported that their assessed values decreased following the grant of a conservation easement. In these cases, factors other than the easements may account for the decreases in assessed values. Potential factors include statewide adoption of use-value assessment for agricultural lands and the inclusion of properties in Wisconsin's Managed Forest Law program or other conservation programs.

These and other related survey findings clearly point to the need for Gathering Waters Conservancy and the Wisconsin land trust community to work with local assessors, the State Legislature, and the Department of Revenue to improve the potential for long-term property tax relief as a strong positive incentive for the conservation of private lands.

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Introduction

Gathering Waters Conservancy initiated this research in an attempt to understand the impacts of conservation easements held by private land trusts on property tax assessments in Wisconsin. Gathering Waters Conservancy sent questionnaires to 109 individuals who own land covered by a conservation easement and asked them about the perceived and real effects the easement had on their property's assessed value. Fifty-three percent of the landowners responded to the questionnaire. This report summarizes the results of that survey.

Gathering Waters Conservancy undertook this project in response to communications from a number of land trust staff and landowners across the state who believed that local assessors had not taken into consideration the effects of conservation easements when determining the value of their protected properties.

Wisconsin Statutes Section 70.32 requires a local assessor to “consider the effect [of a conservation easement] on the value of the property” when assessing land for property tax purposes. Similarly, this Section requires that assessors consider the effects of zoning on the property's value. The Section also requires assessors to take into consideration the property's inclusion in federal conservation programs or the state's farmland protection program.

The primary purpose of this research project is to collect qualitative and quantitative information to either support or refute the anecdotal evidence mentioned above and to identify possible solutions to problems that have been identified relating to the assessment of lands protected with easements. Gathering Waters Conservancy's overarching goal is to encourage additional use of conservation easements to conserve private land and to provide long-term tax relief to landowners who voluntarily place permanent restrictions on their land through easements.

Land Trusts and Conservation Easements in Wisconsin

Land Trusts

Currently, forty-five land trusts operate in the State of Wisconsin.

Land trusts are private, tax-exempt, non-profit organizations that specialize in the conservation and protection of private lands for open space, recreation, education, water quality, wildlife habitat, farmland preservation, woodland preservation, etc. In Wisconsin, they range from the Wisconsin Chapter of The Nature Conservancy, with over thirty full-time staff and five regional offices, to the Waukesha Land Conservancy, an all-volunteer organization. Most Wisconsin land trusts now have at least one paid staff person. Some, like the Door County Land Trust, the Natural Heritage Land Trust, and the Mississippi Valley Conservancy have several paid staff.

The number of land trusts operating in Wisconsin has increased rapidly in recent years mirroring a similar trend at the national level. Since 1990, 24 new land trusts have formed in the state. In the year 2000 alone, six new trusts were established in Wisconsin. The Land Trust Alliance's

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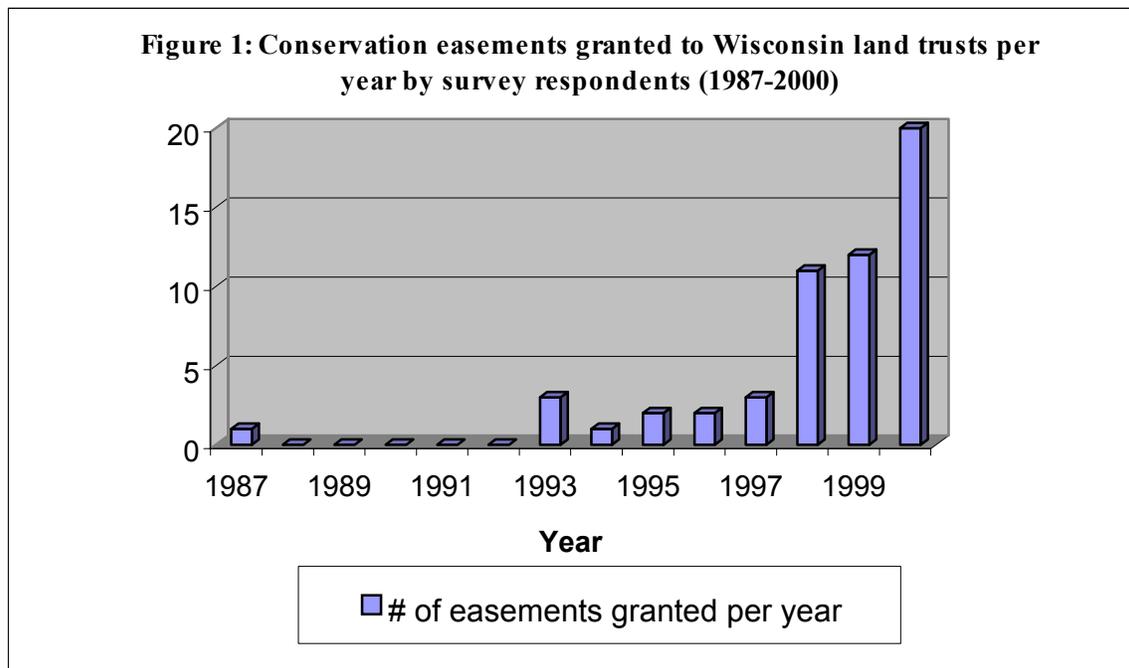
2000 National Land Trust Census¹ found that the number of land trusts in operation nationwide increased from 53 in 1950 to 887 in 1990 to 1,263 in 2000.

Conservation Easements

According to the Land Trust Alliance's Census, the Wisconsin portion of which was conducted in collaboration with Gathering Waters Conservancy, land trusts in Wisconsin hold 174 conservation easements. Two-thirds of Wisconsin's land trusts hold at least one easement. In all, Wisconsin's land trusts have protected over 17,000 acres of land through the use of conservation easements.

Conservation easements are binding legal agreements between a landowner and a qualified holder (such as a non-profit land trust recognized by the IRS as a 501(c)(3) charitable organization or a government agency) that restrict the current and future uses of the land to protect its conservation values (such as scenic views, wetlands, wildlife habitat, and prime farmland). Almost all conservation easements restrict the number and location of buildings on the property; and some prohibit development altogether.

Conservation easements as a land protection tool are becoming increasingly popular with private land trusts, public agencies such as the Department of Natural Resources, and even general-purpose local units of government. Figure 1 depicts the significant increase in the number of easements granted to land trusts each year in Wisconsin between 1987 and 2000 according to the findings of our survey.



¹ Land Trust Alliance website – *National Land Trust Census Charts and Graphs*:
http://www.lta.org/newsroom/census_charts.htm

Survey Methodology

Overview

Gathering Waters Conservancy approached forty-one of the state's land trusts² in the fall of 2000 and requested information on their experiences with conservation easements and assessed values. In addition, each land trust was asked to provide contact information for all landowners owning property protected by a conservation easement held by the organization. In the second stage of the project, a direct-mail survey questionnaire was sent to 109 conservation easement landowners in the spring of 2001.

Land Trust Questionnaire

Gathering Waters Conservancy staff contacted forty-one of the state's land trusts to collect qualitative and quantitative information on conservation easements and property tax assessments as well as contact information for landowners with property covered by conservation easements. Contacts were made either by telephone or by e-mail. Land trust representatives were asked questions about the easements held by the trust, the landowners whose properties are covered by those easements, the extent to which local assessors appear to be taking the easements into consideration when assessing those properties, and other related questions. Appendix A contains a summary of the questions asked of each land trust in this stage.

Eighteen land trusts provided Gathering Waters Conservancy with 76 landowner names. Gathering Waters Conservancy distributed surveys to each of these landowners by mail. Six other land trusts elected to distribute surveys themselves to thirty-three additional landowners. A number of land trusts opted to not share some or all of their landowners' names and contact information out of concern for landowner privacy, the recentness of the grant of easement, or various other reasons. In all, 109 surveys were sent.

Landowner Survey

The landowner survey was composed of twenty questions relating to the respondent's land, the conservation easement covering the land, the property's assessed value, and, where applicable, the landowner's efforts to secure a reduction in the assessed value.

The survey questions were designed to solicit both qualitative and quantitative information. Some questions requested an answer of "yes", "no", or "unsure"; others offered multiple choices; and some were open-ended allowing room for respondents to provide specific comments and explanations of their experiences. Appendix B includes a sample copy of the questionnaire and a detailed summary of the responses. Appendix C provides a comprehensive list of survey respondents' comments.

² The Town of Dunn in Dane County was included in this survey along with the other land trusts because it acts like a land trust in many ways. The Town also works in close partnership with Gathering Waters Conservancy and the Dane County Natural Heritage Foundation.

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Survey Response Rate

Gathering Waters received 58 completed surveys out of the 109 that were sent out resulting in a 53% rate of return.

Summary of Findings

How much land is protected by conservation easements?

Survey respondents own a total of 5,788 acres of land in Wisconsin that are covered by conservation easements. In some cases, an easement may only cover a portion of a property. In other cases, respondents may own additional properties not covered by easements. Hereafter, for the purposes of this report, “protected lands,” “protected properties,” or “protected parcels” will refer to the acreage under conservation easement as reported by survey respondents.

The average size of the protected parcels is 102 acres. The largest protected parcel is 500 acres and the smallest is one acre.

What kind of land do the easements cover?

Nearly half, 47 percent, of the protected land is forested, while 26 percent was reported as being farmland. Wetlands and former farmlands account for eight percent each of the total, and prairie, either natural or restored, makes up about five percent of the total. River and lake frontage and other, a category that was most often used to describe areas delineated as building zones, make up just over one percent of the protected land each. The land type for the remaining three percent of the protected acres was not specified.

Where are these properties located?

Survey respondents own protected land in 39 townships, 1 village, and 23 counties across Wisconsin. See Map 1 following Appendix C for the number of protected parcels per county.

Who owns the easement land?

Ninety-seven percent of the protected properties are still owned by the original landowner responsible for granting the easement. Only two of the 58 survey respondents are not the original landowners.

Easement Donation versus Sale

Eighty-three percent of the conservation easements were donated, while seven percent were granted in exchange for some sort of monetary compensation. The remaining ten percent of survey respondents left this question blank.

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Enrollment in Other Conservation Programs

According to survey respondents, just less than eight percent of the protected land is also enrolled in a state conservation program such as Wisconsin's Managed Forest Law (MFL) program. Just over two percent of the protected land is also enrolled in a federal conservation program such as the Conservation Reserve Program (CRP) or the Wetlands Reserve Program (WRP).

Since these programs place long-term restrictions on the use of land, they can potentially affect a property's assessed value and ultimately the property taxes paid by the landowner. This effect can come either directly or indirectly. In the case of MFL, property taxes based on an assessed value are waived entirely and woodland owners are instead required to pay a small, fixed, per-acre tax on the land and a five percent yield tax based on stumpage value after a timber harvest.³

Federal conservation programs such as CRP and WRP, on the other hand, do not impact property taxes directly as MFL does. Rather, the inclusion of a piece of property in a federal conservation program must be considered by a local assessor, just as a conservation easement must, when the assessor determines the assessed value of the land. There are, however, other economic incentives tied to land's inclusion in these programs; these include annual per-acre rents and cost sharing for tree and cover planting costs.⁴ It is important to note that the CRP and WRP programs typically only last for 15 or 30 years. They are, therefore, substantially different from permanent conservation easements.

This information on the enrollment of some eased properties in state or federal conservation programs is included in this report because the potential exists for the reduced property assessments reported by some respondents to be the result of enrollment in these programs and not a result of the conservation easements covering that land.

Land Taxed at "Use-Value"

The Wisconsin Department of Revenue refers to use-value taxation as "preferential assessment of agricultural land for property tax purposes."⁵ In essence, this program allows for agricultural land meeting several criteria to be assessed at its use-value, the value associated with its use for agricultural purposes only, and not at a potentially higher value that might reflect the development potential of the land. The use-value assessment of a given parcel is almost always lower than that which would be given to the property if it were not subject to this program. Thus, there are property tax ramifications to this program, and there is potential for a property's inclusion in this program to affect our survey findings.

³ Wisconsin Department of Natural Resources website -

<http://www.dnr.state.wi.us/org/land/forestry/ftax/managed.htm#Benefits>

See also <http://www.dnr.state.wi.us/org/land/forestry/ftax/INDEX.HTM> for information on other Wisconsin Forest Tax Laws.

⁴ USDA Farm Service Agency website - <http://www.fsa.usda.gov/dafp/cepd/crpinfo.htm>

⁵ Wisconsin Department of Revenue website - <http://www.dor.state.wi.us/slf/usevalue.html>

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Twenty-three percent of respondents, who own around thirteen percent of the protected land, indicated that they believe their protected land is taxed at its use-value. Two of these respondents, however, indicated that their land is taxed at “woodland use-value” despite the fact that Wisconsin’s use-value taxation rule applies only to certain agricultural lands. It may be that these landowners have enrolled their properties in MFL or another Wisconsin forest tax law program that provides some form of reduced assessment or property taxes. Forty percent of respondents do not believe that their property is taxed at use-value, while thirty percent were unsure about the answer to this question. Seven percent left the use-value question blank.

Development Restrictions Included in the Conservation Easements

Twenty-nine percent of the easements covering the protected land do not allow any form of development. The remaining easements (71 percent) contain provisions for one to three buildings, usually single-family residences or agricultural buildings.

Generally, the easements allow for one or two homes and a limited number of accessory buildings such as garages or sheds. In many cases, the homes or farmsteads allowed under the easements existed at the time the easement was granted. In other cases, provisions were made in the terms of the easements for the landowners and/or their children or future landowners to be able to build homes on designated parts of the properties.

Properties Reassessed Since Easements Were Granted

Fifty-four percent of the protected properties have been reassessed since the easements were granted. Twenty-six percent have not been reassessed. Nineteen percent of respondents were unsure about whether or not their property had been reassessed.

The Effects of Conservation Easements on Assessed Values

Less than one third of survey respondents reported seeing a decrease in their assessed values since granting the easements, despite the fact that the easements greatly restrict development on the properties. Nineteen percent of the respondents reported that there was no change in their assessed value, while just over ten percent of respondents reported an increase in their assessed value after the grant of a conservation easement.

It is important to note that forty-two percent of respondents left this question blank, most of them indicating either that their property had not been reassessed since the easement was granted or that they were unsure about whether or not the property had been reassessed.

Survey respondents reported that their assessed values increased by as much as 280 percent and decreased by up to 90 percent following the grant of a conservation easement. The average percentage change in assessed value was -2.3.

Assessor Awareness and “Consideration” of Conservation Easements

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Sixty percent of respondents indicated that they believe their local assessor was aware of the conservation easement covering their property at the time of its most recent assessment. Only 28 percent, however, believe that their assessor “considered” the effect of the easement on their property’s assessed value.

Nearly one-third (31 percent) indicated that they do not believe that the assessor considered the effect of the easement on their property’s value. Twelve percent of respondents reported that they believe their assessor was not aware of the existence of the easement, and fourteen percent reported that they are unsure about whether or not the assessor was aware of the easement.

The survey asked respondents to report on who informed the assessor of the existence of a conservation easement on their property. In the majority of the cases, it was the landowner who informed the assessor. Respondents also mentioned lawyers, land trust staff, town or county officials, and appraisers.

Several respondents described a lack of understanding of conservation easements by their assessors and recommended that Gathering Waters Conservancy and other organizations work to help make assessors better informed about easements.

Should conservation easements affect the assessed values of the properties they cover?

The majority of survey respondents (86 percent) believe that an easement should affect the assessed value of a protected property. Only three percent indicated that they believe an easement should not affect a property’s assessed value, and seven percent indicated that they are unsure about this. Another three percent left this question unanswered.

The following are some comments from landowners that followed their responses to Question 20 (*Do you believe that a conservation easement should affect the assessed value of a property?*):

“Yes. Farmers need all the financial assistance they can get considering costs of everything and the prices paid for our products. We went into the easement hoping that we could make it affordable for our son to continue farming.”

“ The easement definitely de-values the property, [thus] the assessed value should drop.”

“Assessed value is based on market value. If the easement decreases the market value then the assessed value should decrease. The assessor is required to consider this by Section 70.32(1)(g) of the Wisconsin Statutes.”

“ Of course. Potential use of [the] land is restricted, therefore [it is] not as valuable. How can we expect landowners to conserve their land when [we] don’t provide them with incentives?”

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“We received a \$65,000 federal tax break for [donating] the easement. Obviously the value is real. This effect could greatly enhance people’s desire to place easements on their land.”

“ Property taxes add a substantial fixed cost to ownership making it more difficult to own large tracts of land. Property taxes, other taxes, and greatly increased land values are powerful incentives to subdivide land. Appraisers must be instructed either by rule or statute change on the procedures they must use to determine impact on values. [original emphasis]”

How significant a role did the potential for a property tax reduction play in the decision to grant an easement?

Despite the fact that the overwhelming majority of respondents believe their property tax assessment should be lowered as a result of an easement, only twenty-one percent indicated that the potential for a property tax reduction had a “significant” influence on their decision to grant an easement. For one landowner, however, “it [the potential for a property tax reduction] is what made the difference in deciding to do it [grant an easement].” The majority of landowners indicated that they were primarily motivated to protect their property out of a love for the land and a desire to see it protected beyond their lifetimes and ownership.

The following are some comments from landowners that followed their responses to Question 11A (*How significant an influence did a potential property tax reduction have on your decision to place a conservation easement on your land?*):

“We put the land under an easement to prevent it from ever being developed. That was fundamental and paramount. Tax reduction was a consequence we had not considered until we learned about it in detail after the easement was signed. We are delighted with and grateful for the tax break.”

“[Our] goal was to prevent subdivision of the property and maintain its openness and wildness forever.”

“What was significant was the reduction in state and federal income tax.”

“I wanted to preserve the land.”

“It [a reduction in property taxes] is what made the difference in deciding to [grant the easement].”

“My income is so low I haven’t needed [an income] tax break, although my property taxes have increased dramatically.”

“None for us but we think there should be a property tax reduction for the property, especially for the future holders [as an] incentive to properly manage the easement.”

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Forty percent indicated that the influence of a potential property tax reduction on their decision to protect their land with an easement was “minor,” and thirty-six reported that the potential for property taxes had no influence at all on their decision to grant an easement. Three percent of respondents left this question blank.

Several respondents mentioned in their comments that they had been warned by land trust staff, lawyers, and others that there was no guarantee of lower assessed values and a reduction in property taxes despite the state law. Land trust staff also indicated that this was the case in our earlier discussions with them.

One landowner commented, “we were cautioned about [the] difficulty of getting assessed at anything near [the lower] appraised [value].” Another wrote, “...there was no guarantee it [an easement] would affect [property] taxes; I hoped it would, but I wasn’t sure of it.”

Many respondents suggest in their comments, however, that a “guaranteed” property tax reduction would serve as a powerful incentive for landowners who are considering protecting their land with a conservation easement. In addition, one landowner points out that a property tax savings would encourage subsequent landowners to abide by the easement: “...there should be a property tax reduction for the property, especially for the future holders [as an] incentive to property manage the easement.”

Attempts to Appeal Local Assessors’ Decisions to Higher Authorities

Twelve percent of respondents, seven landowners, have appealed their property tax assessments to the local Board of Review in their municipality. Some of these landowners have also appealed their cases to the Wisconsin Department of Revenue. Seventy-seven percent of respondents reported that they have not appealed their cases, and eleven percent left this question unanswered.

Several of the landowners who appealed their assessments to a higher authority did not succeed in having the assessment reduced. They cited perceived reasons for this such as, “they did not reduce the assessment...in part because they did not understand it” and “their [the local municipality’s] attorney advised them they had met the statute because they had considered the matter.”

Only one set of landowners was successful in having their assessment reduced on appeal to the Board of Review, but even they were not satisfied that the final assessment was appropriate given the effect of the easement on the market value of their property. “We were disappointed with the Board of Review reassessment but could not afford to take the action further.”

Interestingly, several comments from survey respondents point to a perception among landowners that appeals to the local Board of Review or the Department of Revenue are doomed to be fruitless or, at best, not worth the expenses involved. For example:

“...The town attorney said we probably wouldn’t get any relief from the Board of Review.”

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“That would be an exercise in futility.”

“I was told that the assessor has the control; an appeal to the Board would not be successful.”

Case Study: Appealing a Board of Review decision to a Circuit Court.

“We were forced to appeal after the initial Board of Review session completely failed to give adequate review of our easement. Nine months and \$16,000 later, the Circuit Court judge agreed with our complaint that the easement had not been considered and remanded [the case] back to the Board of Review. The Board of Review subsequently lowered [our] assessment by 9%, but [our] appraisal [had] indicated a much greater devaluation due to the easement. We were disappointed with the Board of Review reassessment, but [we] could not afford to take the action further.”

Conclusion

The state and federal income and estate tax benefits of donating a conservation easement have been powerful incentives for the conservation of hundreds of thousands of acres of privately owned land across the country and in Wisconsin. But, these incentives, especially in the case of income taxes, tend to favor wealthier landowners with larger incomes. For landowners who are land rich and cash poor, a savings on annual property taxes may be the most powerful and effective incentive for private conservation through the use of conservation easements.

The State of Wisconsin took a significant step in the right direction with the passage of Wisconsin Statute Section 70.32, which requires assessors to take an easement into consideration when determining a property’s assessed value for property tax purposes. This law, however, is relatively unclear, and as this survey has shown, it has not been applied uniformly across the state. In the words of one concerned landowner, “the current law is ambiguous and inconsistent in its application.”

The remainder of this section outlines several alternative options for reforming, clarifying, or replacing the current policy. Many of these options are based on approaches currently being used or proposed in other states to provide incentives for private conservation that are tied at least indirectly to property taxes and assessed values. Some are based on comments made by landowners in their responses to the survey.

Options for Reform

- 1. Conservation easement lands could be assessed based on more specific guidelines outlined in state law or by administrative rule. These guidelines could be further explained in the state Assessment Manual.**

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Many critics argue that assessors in Wisconsin are not given enough specific direction and guidance as to *how* they should “consider the effect [of a conservation easement] on the value of [an eased] property.” The state Assessment Manual (as well as the relevant state laws and administrative rules, for that matter) only provides assessors with minimal guidance in this area.

One recommendation for addressing this situation is to provide more specific instructions on how eased properties should be valued in the law, the administrative rules, or in the Assessment Manual.

Two specific approaches that could be used are outlined below:

Protected lands could be assessed using a specific mathematical formula established in the state statutes or by administrative rule.

In the state of Illinois, which has a local property taxation system similar to Wisconsin’s, the property tax assessment for a parcel of land encumbered by a conservation easement is set at 25 percent of the value that would be assigned to that property without the easement. In other words, a conservation easement lowers a property’s assessed value, and property taxes, by 75 percent. To be eligible for the program, the easement must meet several criteria.⁶

According to Brian Reilly⁷, this program helps to provide a strong economic incentive for private conservation in Illinois. It provides a significant property tax reduction for the landowner, but according to Reilly, the program has had a negligible impact on local tax revenues⁸.

For a number of reasons, the program is especially effective at encouraging conservation in urban and suburban parts of the state of Illinois, where development pressures are the greatest. In Wisconsin, the program would likely encourage private conservation throughout the state by guaranteeing a fixed level of property tax savings for the owners of protected land.

Assessors could be directed to use a professional appraisal to determine the assessed value of a property after a conservation easement has been granted.

Many landowners who donate conservation easements have a professional appraisal prepared at the same time so that they may claim a deduction on their federal and state income taxes.

⁶ For more information on Illinois’ conservation easement program, please refer to the following websites:

<http://www.theconservationfoundation.org/Land/easements.htm>

<http://www.landfdm.org/Indeas.html>

<http://www.dupageforest.com/CONSERVATION/easements.html>

Or, contact the Illinois Department of Natural Resources Division of Natural Heritage:

524 South Second Street Springfield, IL 62701 -- (217) 785-8774 -- inhd@dnrmail.state.il.us

⁷ Brian Reilly is the Program Manager for the Natural Areas Protection Program administered by the Illinois Department of Natural Resources’ Division of Natural Heritage.

⁸ This is most likely due to the fact that local municipalities in Illinois (likewise in Wisconsin) receive shared revenues from the state that account for the aggregate assessed value of all the property in the municipality.

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For federal income taxes, the potential deduction equals the difference between the land's value without the easement and its value with the restrictions in the easement (easement donors can deduct up to 30% of their adjusted gross income over a total of six years).

IRS regulations establish detailed standards and procedures for preparing these easement appraisals for income tax purposes. Assessors could be directed by law or by rule to consult or make their assessment consistent with an appraisal of this kind. Under one possible scenario, if the assessment were to differ from the appraisal, the burden of proof could be placed on the local assessor to justify any difference between the two values.

2. Local assessors could be provided with additional training in the area of assessing properties covered by conservation easements.

Along with providing assessors with more guidance in preparing assessments of eased properties, the state could also consider providing or requiring assessors to receive additional training in this area. Ideally, the training would be mandatory to meet state educational requirements for local assessors.

3. An annual state income tax credit could be created to offset property taxes for landowners whose property is encumbered by a conservation easement.

This alternative policy is based on a proposal being considered by the State of New York. Under the proposal, landowners that grant conservation easements are eligible for an annual state income tax credit to offset a portion of their property taxes.

The New York proposal calls for a refundable credit equal to 25 percent of the local taxes paid on the property during the previous year with a cap of \$5000 for each qualified taxpayer. Because the tax is "refundable," the landowner would receive the entire amount of the tax credit even if it were higher than the amount of money he or she owed in income taxes that year. The tax credit is also ongoing—the landowner can receive the credit for as long as he or she owns the property. Subsequent landowners would also be eligible for the tax credit.

This type of program may be popular because it provides a strong incentive for private conservation with no potential to impact local tax revenues.

4. Conservation easement lands could be granted status similar to forest lands under the Managed Forest Law (MFL) or to agricultural lands taxed at use-value.

Just as MFL and the agricultural use-value assessment programs were passed to encourage landowners to keep their land in forestry and in farming, respectively, a new program could be created to encourage landowners to protect vital conservation lands in perpetuity by reducing the property taxes paid on those parcels. Under this type of program, conservation easement lands

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could be assessed in a special way acknowledging the reduced value that results from the easement restrictions.

- 5. A new administrative rule or state law could be enacted requiring that specially trained professionals, such as state employees or professional appraisers, assess conservation easement properties separately from the non-eased properties in each local municipality.**

An example of a similar program already exists in Wisconsin. All manufacturing property in the state is assessed by Department of Revenue staff rather than by local assessors. In 1973, the legislature decided that manufacturing property (including land) should be assessed by Department staff separately from other kinds of property and land in a local municipality. Likewise, the decision could be made that conservation easement land should be assessed separately from other local private lands.

Closing thoughts

All of the options described above would help clarify Wisconsin's policy regarding how lands protected by conservation easements should be valued for property tax purposes. Any of these options, whether enacted alone or in some combination, could be used to create a stronger and more effective set of incentives for conserving private lands in the state. This is especially true for landowners who are land rich and cash poor. Our survey and other communications indicate that many of these landowners want to keep their land intact and to protect the wildlife habitat, scenic views, and other benefits that protected lands can provide. Unfortunately, under current policies many are forced to sell because of rising property taxes, a significant carrying cost associated with land ownership. The current law does not adequately address this issue, and as a result many opportunities to protect key properties for the benefit of the public and future generations have been irreversibly lost.

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Appendix A: Land Trust Questionnaire

This appendix contains a list of the questions asked of 41 Wisconsin land trusts in late fall 2000 in communications that occurred either by email or by phone.

1. How many conservation easements does your land trust hold?
2. Can we contact the landowners with whom you hold conservation easements to communicate with them directly about their experiences with property taxes? If so, please send name, address, email, and phone number for each.
3. Have tax assessors in your area taken conservation easements into consideration when assessing the value of conservation easement encumbered properties?
4. If so, have the easements increased or decreased the value of the properties? (Please provide information on each easement if possible. Also, describe the type of land for each property – farmland, forest, wetland, etc.)
5. Have you worked with any landowners who have appealed their assessed valuations to their local Board of Appeals? If so, please describe those experiences.
6. We would like to speak with tax assessors on this issue as well. Would you please send the names and contact information for assessors working in the municipalities in your area?

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Appendix B: Landowner Survey and Aggregate Responses

This appendix contains a sample of the direct-mail survey questionnaire sent to 109 Wisconsin landowners in the spring of 2001, which garnered 58 responses. Following each question is the aggregate of all 58 answers.

Section 1 -- Your Land:

Please note: We are only concerned about land you own that is covered by a conservation easement. All questions below refer only to your eased property. If you own more than one property covered by a conservation easement, please answer separately for each.

1. Where is your land located?

Town: 41 townships

Number of easement properties per town:

Bailey's Harbor: 6	Freeman: 1	Minocqua: 4
Blue Mounds: 1	Gale: 1	Oregon: 1
Boscobel: 1	Gilmanton: 1	Osceola: 1
Castle Rock: 1	Grafton: 1	Plum Lake: 1
Chimney Rock: 1	Greenbush: 1	River Falls: 1
Clifton: 2	Harrison: 1	Rochester: 1
Dayton: 1	Honey Creek: 1	Rockbridge: 1
Dunn: 3	Jackson Port: 1	Sherman: 1
Eagle: 1	Kinnickinnic: 3	Sturgeon Bay: 1
East Farmington: 1	Lafayette: 1	Troy: 1
East Troy: 1	Liberty Grove: 2	Village of Nelson: 1
Eau Galle: 1	Little Wolf: 1	Weston: 1
Ellison Bay: 2	Lincoln: 1	Woodruff: 1
Farmington: 2	Lodi: 1	

County: 23 counties

Number of easement properties per county:

Buffalo: 2	Oneida: 5	St. Croix: 3
Columbia: 1	Ozaukee: 1	Trempeleau: 2
Crawford: 1	Pierce: 4	Vilas: 2
Door: 12	Polk: 3	Walworth: 3
Dane: 5	Racine: 1	Washington: 1
Grant: 2	Richland: 1	Waukesha: 1
Iron: 1	Sauk: 1	Waupaca: 2
Marathon: 2	Sheboygan: 1	

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Appendix B continued: Landowner Survey and Aggregate Responses

1. How many acres is your property? Total: 6561 acres
2. How many acres are covered by the easement? Total: 5788 acres
4. Approximately, how many acres of your land can be described by each of the following?
(The sum of these numbers should roughly equal your answer to question #3.)
 1. forest: 2738 acres
 2. farmland: 1500 acres
 3. wetlands: 454 acres
 4. former farmland / fallow fields: 453 acres
 5. lakefront / riverfront: 66 acres
 6. natural / restored prairie: 317 acres
 7. other: 80.5 acres(home sites: 33.5 ac.)
5. How many acres of your land are covered by state or federal conservation programs in addition to the conservation easement? *Please indicate which programs cover your land and how many acres each program covers.*
 - None: 41 responses (71%)
 - State programs (e.g. Managed Forest Law): 10 responses (17%), 437 acres total; 168 acres in Managed Forest Law
 - Federal programs (e.g. Conservation Reserve(CRP), Wetland Reserve(WRP)):
 - 6 responses (10%), 142 acres total;
 - 102 acres in CRP
 - 30 acres in WHIP
 - 10 acres in an unspecified federal conservation program

Section 2 -- The Conservation Easement:

6. In what year was the conservation easement on your land granted?

2000: 20	1996: 2	1992: 0	1988: 0
1999: 13	1995: 2	1991: 0	1987: 1
1998: 12	1994: 1	1990: 0	1986: 0
1997: 3	1993: 3	1989: 0	1985: 0

7. Which land trust / land conservation organization holds the easement on your land?
See Appendix D
8. Does your easement contain provisions for homes or seasonal residences on your land? 41 (71%) Yes; 17 (29%) No
If (Yes), how many? Total: 59; Average per property: 1.4
9. Are you the original landowner(s) who entered into the conservation easement agreement? 56 (97%) Yes; 2 (3%) No

Appendix B continued: Landowner Survey and Aggregate Responses

Gathering Waters Conservancy

10. If you answered (No) to question #9, how did the conservation easement influence your decision to purchase the land? Very Positively: 1; Neutrally: 1
See Comments in Appendix C.

11. If you answered (Yes) to question #9, please answer the following two questions:

A. How significant an influence did a potential property tax reduction have on your decision to place a conservation easement on your land?

- Significant: 12 (21%);
- Minor: 23 (40%);
- None: 21 (36%)
- 2 (3%) left this question blank.

See Comments in Appendix C.

B. Did you donate the conservation easement or did you receive compensation for it?

- Donate: 48 (83%);
- Received compensation: 4 (7%)
- 6 (10%) left this question blank.

Section 3 – The Impact of the Conservation Easement on the Land’s Assessed Value

12. Has your property been reassessed since the conservation easement was placed on it?

- Yes: 32 (55%);
- No: 15 (26%);
- Unsure: 11 (19%)

13. At the time of your land’s most recent assessment, was your local assessor aware of the conservation easement on your property?

- Yes: 35 (60%);
- No: 7 (12%);
- Unsure: 8 (14%)
- 8 (14%) left this question blank.

14. If you answered (Yes) to question #13, who informed the assessor of the existence of a conservation easement on your property?

You: 31

Your Lawyer: 6

A Hired Appraiser: 3

A Town or County Official: 5

Land Trust Staff: 6

Unsure: 0

Other: Neighbor: 1

20 (34%) left this question blank.

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Appendix B continued: Landowner Survey and Aggregate Responses

15. In your opinion, did the assessor consider the effect of the conservation easement on the value of your property?

- Yes: 16 (28%);
- No: 18 (31%);
- Unsure: 10 (17%)
- 14 (24%) left this question blank.

In either case, what factors do you think influenced the assessor's decision?

See Comments in Appendix C.

16. What effect has the conservation easement had on your property's assessed value? Has the assessed value increased, remained unchanged, or decreased due to the easement?

- Increased: 6 (10%);
- Remained unchanged: 11 (19%);
- Decreased: 17 (29%)
- 24 (41%) left this question blank.

17. If the assessed value has changed, by how much?

High: 280% increase; Low: 90% decrease; Average: 2.28% decrease

28 (48%) answered this question; 30 (52%) left it blank.

If the assessed value has changed, what factors do you believe contributed to the change?

See Comments in Appendix C.

18. Is your property classified as agricultural land by the state and assessed at its "use-value"?

- Yes: 13 (22%);
- No: 23 (40%);
- Unsure: 17(29%)
- 2 respondents answered "Yes" but indicated their land was taxed at "woodland use-value."
- 4 respondents (7%) left this question blank.

19. Have you appealed your assessment to the local Board of Review?

- Yes: 7 (12%)
- No: 45 (78%)
- 6 (10%) left this question blank.

If (Yes), please describe your experience below: See Comments in Appendix C.

20. Do you believe that a conservation easement should affect the assessed value of a property? Yes: 50 (86%); No: 2 (3%); Unsure: 4 (7%)

See Comments in Appendix C.

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Appendix C: Landowner Survey Comments

This appendix contains all of the comments provided by survey respondents as quoted directly from their responses. Information has been added in brackets only when necessary to maintain anonymity or to clarify a point.

Question 10: If you [are not the original landowner(s) who granted the conservation easement on your property], how did the conservation easement influence your decision to purchase the land: (Very Positively), (Somewhat Positively), (Neutrally), (Somewhat Negatively) or (Very Negatively)?

- *Although our situation was unique, it affected the seller's asking price – by lowering it.*
- *Any restrictions are viewed negatively by all individuals commenting on my easements...any resale is adversely affected.*

Question 11A: How significant an influence did a potential property tax reduction have on your decision to grant a conservation easement on your land?

- *By restricting development and subdivision, assumed value would be significantly decreased. We are first property in [our town] with an easement.*
- *What was significant was the reduction in state and federal income tax.*
- *We put the land under an easement to prevent it from ever being developed. That was fundamental and paramount. Tax reduction was a consequence we had not considered until we learned about it in detail after the easement was signed. We are delighted with and grateful for the tax break.*
- *Goal was to prevent subdivision of property and maintain its openness and wildness forever.*
- *I wanted to preserve the land...*
- *[Before and] after donation deduction [was of] moderate importance. In spite of both, [we] probably would have done some [protection with] conservation easement anyhow.*
- *Taxes on these properties are low at present. Any reduction was not expected nor received.*
- *We're too jealous of ownership of this land to begin sharing it with a trust for mere taxes.*
- *At the time we were not aware of tax benefits – we just wanted to preserve the land so that future subdividing would not happen.*
- *[Significant] It is what made the difference in deciding to do it.*
- *The assessor will not consider the impact of the easement. I would have donated the easement sooner if there were property tax advantages.*
- *[None] Only because our assessed value is much less than its actual value.*
- *[Significant] Taxes in [our] township are very high. As I did not want to see this land developed, an easement seemed the best solution.*
- *[Minor] There was more value regarding income taxes and value of gift. [I/We] assumed property tax savings would be minimal.*
- *[Minor] My income is so low I haven't needed [an income] tax break, although my property taxes have increased dramatically.*
- *None for us but we think there should be a property tax reduction for the property, especially for the future holders [as an] incentive to properly manage the easement.*

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Appendix C Continued: Landowner Survey Comments

- [None] *Tremendous housing boom – [we] need a refuge for animals, wildlife and plants.*
- [Significant] *I want to retain the property for my children. My property is located in a county of rapidly accelerated land prices due to hunting land sales. The land is non-income producing after CRP contracts expire...*
- [Minor] *We were cautioned about difficulty of getting assessed at anything near appraised [value].*
- [Minor] *It was one of several considerations, but I had been told there was no guarantee it would affect taxes; I hoped that it would, but I wasn't sure of it.*
- [None] [My goal was] *to protect the land and encourage others to do the same, I would have done the easement even if there were no financial benefits. Others will need more encouragement and lower property taxes would be one [way of encouraging them].*
- [None] *I wanted the land to remain undeveloped after my death. The land trust was for me the best way to go. The [property] was always assessed as recreational/forest land. The Managed Forest Act did [the] most to reduce [my] property taxes.*
- *We expected that our property taxes would not increase as land values rise.*

Question 15: In your opinion, did the assessor consider the effect of the conservation easement on the value of your property: (Yes), (No) or (Unsure)? What factors do you think influenced the assessor's decision?

- *I gave [our] assessor a copy of Land Trust Alliance handbook on appraising land under conservation easement.*
- *Right after we donated easement, all other...property assessments [in our county] were raised from 15%-19%. Our property assessment was not changed. We do not know the results of assessment done this spring.*
- *Not yet. And assessor never answered my call.*
- *Lack of awareness (ignorance) of conservation easements and indifference. Earlier calls to assessor's office with inquiry about easement/tax matter not returned. When finally reached, representative stated land already assessed at lowest rate [due to agricultural zoning].*
- *It was necessary to file an objection to the assessment. Then a court proceeding to get adequate review of the easement by the assessor.*
- *Lack of information about easements. Perhaps local assessors could receive literature about the effect of easements from [Gathering Waters Conservancy].*
- *Before and after conservation easement appraisal data plus educational data on land trusts and conservation easements supplied by owner.*
- *Independent appraisal in each case. The final assessed value was reduced from the original 'new' appraisal during the initial phase of the assessment.*
- *Traditional devaluation – he has done others and 'felt' 25% was fair.*
- [No] *He did not have comparable values. The use-value program of the state reduced value of the farmland about as much as the appraisal. I have assumed I was caught in bad timing.*
- [No] *Our property taxes for this year did not change significantly from last year. The assessor was completely uninterested in the conservation easement...*

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Appendix C Continued: Landowner Survey Comments

- [No] *The assessor does not understand the easement, and there is no state enforcement to consider the effect of the easement.*
- [No] *Not yet...we have experienced difficulty with our assessor – poor response, mishandled Board of Review.*
- [No] *The incredible increase in land values throughout [our] county.*
- [Unsure] *In process...We have followed up with conversations [with the assessor] and we think he concurs – but not in writing yet.*
- [No] *I think he considers it land for recreational use because there are no permanent homes on the place.*
- [No] *1. Lack of knowledge of the procedures in the law. [Assessors] also seemed to be “set in their ways.” 2. Fear of reaction of neighboring property’s owners. 3. Escalation of recreational land (hunting) [in the county] and treating conservancy land equal to recreational which ours is not.*
- [No] *He stated that the easement has no effect on his assessment.*
- [Yes] *Asking and showing him a copy of the appraisal showing a reduction in the value.*
- [No] *Politics – locals don’t like loss of taxes; ignorance of conservation easements; lack of state guidance.*
- [Yes] *Lots of information from me – including a copy of the required appraisals by a professional appraiser. Maybe some education by the land trust staff.*
- [No] *Wisconsin Forest Crop Law*
- [No] *Well, I feel that the assessor’s decision could be affected by politics – he is hired by the town board.*
- [No] *The assessed value is based on actual market sales of comparable land. Since there have been no sales of conservation easement properties locally, he is using sales of forested and open land (non-farm hunting land).*
- [Yes] *We had it privately assessed for IRS deduction and gave the assessor this evaluation.*

Question 17: If the assessed value [of your property] has changed, what factors do you believe contributed to the change? Note: The answer in brackets before each comment is from Question 16, which asked: What effect has the conservation easement had on your property’s assessed value? Has it (Increased), (Remained Unchanged) or (Decreased) due to the easement?

- [Increased] [Our town] *reassessed in 1999 based on state-supplied fair market values. [The assessed] land value [increased by 164%].*
- *The Board of Review, in remanded proceedings required by Circuit Court, factored (to some extent) loss of development rights in its reassessment.*
- [Increased] *Value increased due to normal tax increase. I don’t think the assessor took the easement into account.*
- [Increased] *I don’t know how much, if any, the easement affected this change. Everyone’s assessed value increased enormously, so it’s really hard for us to tell.*
- [Decreased] *Use-value assessment on cropland and pasture has increased assessed value on non-qualifying land.*

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Appendix C Continued: Landowner Survey Comments

- [Decreased] *The fact it was in the conservancy.*
- [Decreased] *Conservation easement cancelled sale value of property.*
- [Decreased] *Can't subdivide for 5-acre house lots.*
- [Decreased] *Appraisal done for the land trust.*
- [Decreased] *Loss of development potential of lake frontage acres.*
- [Remained unchanged] *Due to [the fact that our town] needed more money due to costs they had in construction of [a new municipal facility]. Also, [the] property adjoining mine...sold for an extreme[ly high] amount even though much of it is wetland.*
- *If [we are] successful, it will be because of referring to Wisconsin Statutes (which are very vague) and being persistent. Maybe Gathering Waters Conservancy could work on getting more definite wording in [the] statutes.*
- [Remained unchanged] *The land hasn't been assessed for about 4 years and the price of land has gone up and so the same as taxes.*
- [Decreased] *The professional appraisal, plus a suggestion by me that he consider the law in Illinois (provided to him) that [says that] valuations should normally be reduced by 70%.*
- *Non-farm hunting land (not purchased for building) is currently selling for \$1500/acre, but there are no restrictive easements on these land sales.*

Question 19: Have you appealed your assessment to the local Board of Review [or to the Department of Revenue]?

- [No] *Our friend the town attorney said we probably wouldn't get any relief from the Board of Review.*
- [Yes] *Difficult, expensive... We were disappointed with the BOR reassessment but could not afford to take the action further.*
- [No] *When notified, [the local] assessor adjusted [the] value to that of the independent appraisal (i.e. value before easement minus value of easement).*
- [Yes] *Frustrating! Town Board always sides with assessor. It was unpleasant and I don't want to think about it...it makes me so angry that I cannot sleep. The local assessor is the most powerful person in the state and is subject to no supervision or enforced guidelines.*
- [Yes] *We notified the assessor that we wished to be present or be represented. He arrived at the meeting (we were not informed) and opened our letter. He then asked to not review our property. We are still waiting for additional action.*
- [No] *That would be an exercise in futility.*
- [No] *Not yet – [we] might if [we're] not satisfied.*
- [Yes] *A meeting (individual) with [the assessor] – verbal attempt to inform him. [Also] presented data from [land trust]. Pleasant meeting but no obvious outcome. Public review with village assessor. She was amused. She said to mail the data I have – both of these have been verbal exchanges. [I] really don't know what to do. I feel we need conservation organizations to mediate this properly because of their knowledge of the topic. I do not feel well informed to advocate on my behalf.*

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Appendix C Continued: Landowner Survey Comments

- [Yes] *They did not reduce the assessment: 1. in part because they did not understand it 2. their attorney advised them they had met the statute because they had considered the matter. Their assessor made no effort to evaluate comparable properties with and without easements. He believed the property may have gone up in value.*
- [No] *I was told that the assessor has the control; an appeal to the Board would not be successful. I believe this assessor is not following state guidelines and is using our easements to raise more funds from us rather than equalizing across the board!*
- [No] *But I did complain – [I] decided not to expend legal money without a mandate or guide from the state – there is no history hereof what loss of value would be when a sale is made. The appraiser who determined the value of [our] easement had the property at much less than the assessor.*
- [Yes] *I appealed it to change it to agricultural land and I gave the assessor the result of [the appraisal done for the IRS deduction]*

Question 20: Do you believe that a conservation easement should affect the assessed value of a property: (Yes), (No) or (Unsure)?

- [Yes] *A certified appraiser indicated in her appraisal a 30% reduction in market value of our [property] as a result of the easement.*
- *Yes. Farmers need all the financial assistance they can get considering costs of everything and the prices paid for our products. We went into the easement hoping that we could make it affordable for our son to continue farming.*
- *Yes – the property is assessed for potential development (i.e. residential sites, which have now been limited by the easement).*
- [Yes] *Depending on the restrictions of course.*
- [Yes] *If that is the opinion of a certified appraiser.*
- [Yes] *The easement definitely de-values the property, [thus] the assessed value should drop.*
- [Yes] *Depends on property features and location: high quality woods versus wasteland, remote versus adjacent [to] urban sprawl, etc.*
- [Yes] *Assessed value is based on market value. If the easement decreases the market value then the assessed value should decrease. The assessor is required to consider this by Section 70.32(1)(g) of the Wisconsin Statutes.*
- [Unsure] *I believe that the conservation easement is a benefit to [the] community as a whole and should therefore be considered when assessing the value of the property. Personally, I think it increases the value of the land...*
- [Yes] *Introduction of new legislation to include “waste” land in use-value assessment should not be allowed to be enacted unless conservation eased property is also included. Waste land and conservation eased property are the prime sources of natural values, habitat, refuge, etc. of all private property.*

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Appendix C Continued: Landowner Survey Comments

- [Yes] *The market for this land has not only been narrowed demographically but in terms of the use to which it can be put (none). It obviously has less value than before and we're not people who had this much to give for higher principles that those having to do with enriching oneself through despoliation of the creation.*
- [Yes] *I do easements myself for a living – north of Chicago, easement value is 80-90% of land [value]. I'm not real pleased by [my county's] 25% rule and may want to appeal...*
- [Yes] *Personally I believe it should increase the value; however, that is exactly the opposite of the norm. I think the tax benefit is a great incentive...*
- [Yes] *It does not have the potential for development.*
- [Yes] *Of course. Potential use of [the] land is restricted, therefore [it is] not as valuable. How can we expect landowners to conserve their land when [we] don't provide them with incentives?*
- [Yes] *We received a \$65,000 federal tax break for [donating] the easement. Obviously the value is real. This effect could greatly enhance people's desire to place easements on their land.*
- [Yes] *If owner cannot develop and or subdivide, value should be lower.*
- [Yes] *Of course. I wanted the assessed value lower for tax and inheritance reasons.*
- [Yes] *The impact should be realistic (and probably small)... We feel that the benefits of our easement warrant the reduced tax status and that our easement is a cheap way for the preservation effort to succeed.*
- [Yes] *I chose to put my land into an easement to prevent it from ever being developed. I could have sold it to a developer and made much more from it than I will probably ever be able to make by selling it with the easement restrictions.*
- [Yes] *There [are] no longer development rights on [the protected] acres so I don't think [they] should be assessed the same as someone who has development rights on their land.*
- [Yes] *It was a big financial sacrifice for me to place [my] land in easement. In so doing it is no longer a potential income producer (not even for grazing) to offset the cost of taxes. The land has hunting and development potential.*
- [Yes] *Property taxes add a substantial fixed cost to ownership making it more difficult to own large tracts of land. Property taxes, other taxes, and greatly increased land values are powerful incentives to subdivide land. Appraisers must be instructed either by rule or statute change on the procedures they must use to determine impact on values.*
- [Yes] *Easements usually reduce the value of the property so they should also reduce the assessed value of the property.*
- [Yes] *But be aware towns like [ours] are tough nuts to crack!*
- [Yes] *Absolutely, especially in an area that is in transition from agriculture to exurban. There is no question but that the restrictions have lowered the resale value of my property, because no developer would buy it. I had an expert appraiser do a 150-page appraisal for IRS purposes and she certainly thought there was a loss of value. The town appraiser didn't even want to look at it.*
- [Yes] *1. Because it affects the value, it should affect the assessed value. 2. [Illinois law says easements should reduce assessed value.]*

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Appendix C Continued: Landowner Survey Comments

- [Yes] *Obviously, the resale value is less after the easement, so one would think property taxes should decrease. On the other hand, the assessed value by the county was much less than the pre-easement amounts by the private assessor. Assuming a similar differential for other area properties, one can argue that the value of my land has decreased relatively, so [my] taxes should be reduced.*
- [Yes] *Although open-forested hunting land is selling for high prices in our area, this land could in the future be built upon or subdivided. Therefore these sales are not a good basis for our assessed valuation. We need some history of sales of restricted land.*

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Appendix D: Number of Landowner Survey Responses per Land Trust

This appendix indicates which Wisconsin land trusts hold the conservation easements covering the protected properties owned by the survey's 58 survey respondents.

<u>Land trust</u>	
	3
American Farmland Trust	0
Cedar Lakes Conservation Foundation	0
Chenequa Land Conservancy	2
Dane County Natural Heritage Foundation	11
Door County Land Trust	4
Gathering Waters Conservancy	0
Geneva Lakes Conservancy	0
Jefferson County Land Trust	0
Kenosha/Racine Land Trust	7
Kinnickinnic River Land Trust	6
Lakeland Conservancy	1
Last Wilderness Conservation Association	2
Mississippi Valley Conservancy	2
The Nature Conservancy	1
North Central Conservancy Trust	2
Northeast Wisconsin Land Trust	2
Ozaukee-Washington Land Trust	1
Prairie Enthusiasts	1
Sheboygan Area Land Conservancy	1
Standing Cedars Land Conservancy	2
Town of Dunn	1
Trees for Tomorrow	1
Waukesha Land Conservancy	1
Wildlife Land Trust (U.S. Humane Society)	6
Wisconsin Farmland Conservancy	

Number of survey responses