

## DAUPHIN COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM

Following is a general description of the agricultural conservation easement purchase program in Dauphin County. This description is intended to familiarize the applicant with the general procedure and considerations. The applicant should keep in mind that this is not a complete, detailed description of the process and that each purchase may vary with respect to unique circumstances. Contact the County Program Administrator to discuss your specific situation.

### STEP 1 SUBMITTING AN APPLICATION

Eligible farms may submit an application and application fee, currently 25 dollars by the third Tuesday of January. To be eligible, a farm must meet the following criteria:

- The farm must be 50 contiguous acres or 10 contiguous acres and adjoin another farm that is preserved for agricultural use.
- The farm must be 50% harvested crop or pasture land. Land that is enrolled in set aside programs such as CRP or CREP is not considered harvested cropland.
- The farm must have at least 50% of its soils in class I-IV soils and in either harvested crop or pasture land.
- The farm must be enrolled in an Agricultural Security Area.
- The farm must have a conservation plan.

### STEP 2 RANKING AND SELECTING APPLICATIONS

Eligible farms are ranked according to a state approved scoring system. This is usually done in late January. Applicants are notified of their rank and have 10 days from the date of notification to review their score if desired. Score changes made within 10 Days are effective for that year. Changes made after 10 days are effective the following year.

#### A NOTE ABOUT RANKING AND SELECTION

The scoring system used in Dauphin County complies with the state regulations for scoring systems. The state regulations set the general framework for all county scoring systems. State regulations require that all eligible applications be scored and ranked based on the score and that applications be selected for easement purchase in order of rank. All applications that are not selected in a given year are re-ranked with new applications the following year. New applications are not automatically placed in line on a waiting list. It is possible for a new application to score well enough to be ranked first.

### STEP 3 APPRAISAL AND TITLE SEARCH

Selected applicants are notified of selection by certified mail. Applicants have 30 days to submit an appraisal and title search deposit to begin the process. After 30 days, the applicant is removed from consideration that year. The application is considered the following year. Upon submission of the appraisal and title search deposits, an appraisal and title search are ordered.

A title search for each farm is conducted at the same time the appraisal is being done. The title search reveals rights-of way, easements, mortgages, liens and other encumbrances against the title. Of primary concern are mortgages. A mortgage holder must sign a document called a subordination agreement which permits the easement purchase to proceed.

## A NOTE ABOUT TITLE WORK

While no easement purchase in Dauphin County has ever been stopped due to items revealed on the title search, it should be noted that certain items may slow the process. In the case of mortgages, liens or judgments, the wishes of the holder of these instruments with regard to the disbursement of the easement purchase funds must be met. This has implications for the type of payment (either a lump sum or installments) the applicant may take and in turn, taxes. Applicants are urged to discuss the program with holders of these instruments prior to application.

## A NOTE ABOUT DEPOSITS

There are two deposits that must be submitted. The first is the Appraisal and Title Search deposit. This is typically between 1,200 and 1,500 dollars. The second is the Survey deposit. This typically ranges between 2,500 and 5,000 dollars. At the time these deposits are submitted, an informal agreement is signed that indicates the amount of deposit, and the conditions of their return or forfeiture. These agreements do not commit the landowner legally to selling the easement.

Deposits are submitted only when the applicant is selected for easement purchase. Deposits are refunded in full after the easement is purchased. The county pays for appraisals, surveys and legal work as the process moves forward. If the easement is purchased, the state reimburses the county for these costs and the deposits are then returned to the landowner. If the easement is not purchased for any reason, the county is not reimbursed. The deposits protect the county from unreimbursed expenses.

## STEP 4 MAKING AN OFFER

When the appraisal is received, the applicant receives a copy of the appraisal and a written offer. The offer is in a per acre figure. The reason for the per acre figure is that the final amount is not known until survey work has been complete. The per acre figure is multiplied by the total surveyed acres to determine the final easement purchase price. The applicant has 30 days from the date of the offer to do one of three things:

1. Accept the written offer and submit a survey deposit.
2. Reject the offer. The applicant may reject the offer and opt to be considered in future years or may withdraw the application entirely.
3. Have a second appraisal done. At the landowners expense, a state certified general real estate appraiser may be retained by the applicant to complete a second appraisal. Both appraisals are then considered. A formula is used to calculate a new easement value. The applicant is made a second offer. This second offer is subject to the \$1,500.00 per acre cap. The applicant has 30 days to accept or reject the second offer. There are no third appraisal options.

## A NOTE ABOUT THE EASEMENT PURCHASE PRICE

The easement purchase price is determined by an appraisal. The appraisal determines a market value and an agricultural value for the farm. The difference between these is the easement value. For example, consider the figures below.

MARKET VALUE	\$4,500.00 PER ACRE
AGRICULTURAL VALUE	<u>\$2,500.00 PER ACRE</u>
EASEMENT VALUE	\$2,000.00 PER ACRE

We cannot guarantee any easement value. The applicant should be aware, however, that Dauphin county currently has a "cap" of \$1,500.00 per acre. In the example above, the applicant would be offered \$1,500.00 per acre for the easement.

The applicant's decision must be submitted in writing and received within the 30 day time frame. If the time frame is not met, or if the applicant rejects the purchase offer, the applicant loses the appraisal and title search deposit and is removed from consideration for that year. The application will be reconsidered the following year.

#### STEP 5 SURVEYING THE PROPERTY

If the applicant accepts an offer, a survey deposit must be submitted. Surveys of the eased area are required for all farms in Dauphin County. As with the appraisal and title deposit, the survey deposit is refunded after the easement purchase is finalized at settlement. If the landowner withdraws from the program after the survey, this deposit is forfeited. The total surveyed acreage to be eased is multiplied by the accepted offer to determine the final easement purchase price.

If there is land that is not to be included in the easement, this land will be excluded as part of the survey. Landowners may exclude some land from the easement subject to the following:

1. Any exclusions must be indicated on the original application.
2. The County Board may reject an application based on size and location of exclusions.
3. Applications with exclusions lose 1.5 points in the scoring system.
4. Applicants that exclude land are responsible for that portion of the survey cost due to the exclusion.

#### STEP 6 SIGNING THE SALES AGREEMENT

After receipt of the completed survey, the applicant is notified that the Agreement of Sale must be signed. The applicant has 30 days from notification to sign the agreement. The agreement of sale is a legally binding contract to sell the easement.

#### A NOTE ABOUT THE SALES AGREEMENT

There are two types of sales agreement; one for a lump sum payment and one for multiple payments. The landowner may opt for either payment type. With the lump sum payments, the full purchase price of the easement is paid to the landowner at settlement. With the multiple payment type, the landowner receives a partial payment at settlement and can opt to have the remainder paid in up to four additional payments in subsequent years. Landowners are urged to obtain tax advice from a qualified tax expert before choosing the payment option.

#### A NOTE ABOUT SURVEYS AND ACREAGE

The Dauphin County program requires that all farms entering the program be surveyed. This is done to obtain an accurate metes and bounds description of the eased area. Survey requirements for the program are somewhat different than what is normally done for a survey.

Also, the surveyed acreage may differ from the deeded acreage. This is particularly true with older deeds. The differences are usually small, typically an acre or two. This is usually due to more accurate survey methods in use today. Another cause of the difference may be errors in the deed that result in an incorrect acreage.

## STEP 7 APPROVAL

After the Agreement of Sale is signed, an application package is prepared and submitted to the State Agricultural Land Preservation Board for approval at a State Board meeting. After approval, there is a six to eight week wait for the purchase to be processed and receipt of the checks. When the checks are received the applicant is notified and a date for settlement is arranged.

### A NOTE ABOUT STATE BOARD APPROVAL

State regulations require that all landowners with property that adjoins the land to be eased must be notified of the application and consideration at a State Board meeting. Adjoining landowners are given the opportunity to challenge the easement purchase. It should be noted that there are only five allowable reasons for such a challenge or for state board rejection. These are:

1. Clear title to the property cannot be secured.
2. The county has insufficient funds to purchase the easement.
3. The county has not followed its approved program procedures for purchasing the easement.
4. Surface minable coal rights exist.
5. The land is not enrolled in an Agricultural Security Area.

It should also be noted that no easement purchase in Dauphin County has ever been rejected.

## STEP 8 SETTLEMENT

At settlement, the applicant signs the Deed of Easement and receives the check for the easement purchase. In some cases, the check may need to be signed over to the settlement agent for disbursement to a mortgage holder. (See "A Note About Title Work" above) The settlement agent will submit the deed to the Deeds Office for recording. After the recorded deed is received, the final paper work is completed for the easement purchase. At this point the deposits are returned to the landowner.

After the deed of easement is recorded, the farm is preserved as farmland in perpetuity. Because the easement is permanent, landowners are advised to consider carefully the implications of the program to their specific situation. Taxes, retirement needs, the wishes of family members, particularly those that may inherit or purchase the farm, are among the important considerations.

**CONTACT THE  
DAUPHIN COUNTY AGRICULTURAL LAND  
PRESERVATION PROGRAM ADMINISTRATOR  
AT 717-921-8100 TO  
DISCUSS THIS PROGRAM FURTHER.**