

Preservation Easement Program

Through The Maryland-National Capital Park and Planning Commission's easement program, a private owner has the opportunity to guarantee the perpetual protection of an important historic resource without giving up ownership, use, or enjoyment of the property. The resource remains in private hands and on the tax rolls, but its character and sympathetic treatment are secured for the benefit of future generations. M-NCPPC staff work with easement property owners to ensure that their historic structures and landscapes are protected from insensitive alterations or neglect.

A preservation easement is a legal agreement used to protect significant building and landscape features of a historic property. The property owner (easement donor or grantor) and a qualified preservation organization (easement holder or grantee) sign a legal document, recorded with county land records, that gives the easement holder certain rights and responsibilities associated with perpetual protection. The easement does not prevent future sales, leases, or estate planning, and the owner remains responsible for maintenance and taxes.

Easements prohibit demolition of historic resources and can control or preclude the subdivision of land. M-NCPPC's easements also provide for project review to ensure that any proposed changes to the historic house and/or landscape are carried out sensitively and do not damage or destroy protected elements. Generally, M-NCPPC's easements protect exterior and interior architectural features as well as open space and designed landscape features. If an interior easement is agreed upon, the easement may protect significant interior elements and finishes, including staircases, floors, woodwork, fireplaces, historic wallpaper, decorative painting and hardware. Although protected features vary by property and are determined based on each property's historic and architectural significance, M-NCPPC does not accept façade-only or term-limited easements.

M-NCPPC's easements do not require that a homeowner receive approval for undertaking basic property maintenance, such as painting or minor repairs. For projects that may affect protected features, M-NCPPC staff work with the property owner to make sure their needs are met without removing or damaging these features.

One of the critical advantages of entering into an easement agreement with M-NCPPC is that the organization maintains a full-time, professional staff to assist with the negotiation and monitoring of its Preservation Easement Program. In addition to conducting regular site visits and advising property owners on appropriate treatments and repair solutions, program staff can guide M-NCPPC's review of projects that affect protected features of a historic property.

Responsibilities of the Easement Holder

M-NCPPC, as a quasi-government agency and qualified easement holding organization, is recognized by the IRS for its commitment to protecting the historic preservation purposes of the donated easement. A preservation easement gives M-NCPPC (the "grantee") the legal authority to enforce the restrictions written in the easement document. M-NCPPC monitors the property at least once a year, maintains written and photographic records of the visit, and ensures that the

terms of the easement are followed. A variety of restrictive conditions are conveyed as part of the easement. One example is a prohibition against any exterior alteration or new construction without first obtaining written approval from M-NCPPC. The organization may also require that the owner make specified improvements to the property or maintain it in good physical condition. For example, M-NCPPC might require the owner to repair a deteriorated cornice within a specified time frame after the easement is conveyed. If the easement protects scenic open spaces, M-NCPPC generally requires that the easement cover enough surrounding open space to preserve the setting and historic context of the historic resource. Restrictions on the land may prohibit or limit subdivision and construction of additional structures on the property.

Monitoring of Easement Properties

Each year, one of the Preservation Easement Program's qualified staff members will contact the property owner to schedule an annual site visit at a mutually convenient time. The visit, which generally lasts one to two hours and may be conducted with both the property owner and program staff, consists of an examination of the protected features of the building, a review of overall maintenance issues, and a discussion of upcoming work. After each visit, a written report is prepared by program staff and a copy is sent to the property owner.

Enforcement

A critical element to a successful easement program is whether the easement holding organization has the resources and willingness to enforce the easements it holds, should violations occur. M-NCPPC has both, and considers a strong enforcement policy vital to maintaining the integrity of its program. M-NCPPC believes it has a responsibility to ensure the preservation of the properties it has promised to protect, and recognizes the great trust that has been placed upon the organization by easement donors.

Project Approval

Repairs and Alterations

In addition to routine maintenance, owners may occasionally need to conduct larger renovation projects that may affect protected features. Proposed projects should first be discussed during the annual visit or with prior consultation with Preservation Easement Program staff to determine whether protected features will be affected and/or if M-NCPPC's approval will be needed. If so, owners must submit an M-NCPPC Easement Change Alteration Proposal Application. Once received, M-NCPPC's Preservation Easement Committee will review all proposals within thirty to ninety days (M-NCPPC will work as expeditiously as possible to review all requests). Work may begin once the property owner receives written approval for a project from M-NCPPC. Over the course of more complex projects, Preservation Easement Program staff may document the ongoing work, usually through drawings or photographs. In addition staff are available to assist with unforeseen issues that may require M-NCPPC's prompt review during the course of a project.

Potential Tax Advantages of Easement Donations

Preserving historic properties through the donation of preservation easement to M-NCPPC, a qualified charitable organization, provides a demonstrable public benefit by protecting significant components of our built and natural environment for future generations. The federal government has recognized the importance of these donations by establishing advantageous income tax incentives that are available to taxpaying donors who meet specific federal statutory requirements. These incentives may allow a qualified donor to take a charitable contribution deduction for the appraised value of the legally binding preservation easement placed in perpetuity on an historic property; however, to qualify, the property must either be (1) listed individually in the National Register of Historic Places or (2) certified as contributing to the significance of a National Register historic district. Donors wishing to seek a federal tax deduction for the donation of a preservation easement to protect a National Register of Historic Places-listed historic structure are advised to obtain professional advice on satisfying the appraisal requirements of the Internal Revenue Code. The donation of a preservation easement may also provide favorable property, estate, and other tax treatments. Each prospective donor should consult with qualified professional advisors to determine the tax and legal consequences of the donation of a preservation easement to M-NCPPC.

Historic Marker Program for Easement Properties

Through its Historic Marker Program for Easement Properties, M-NCPPC recognizes buildings in Prince George's County that have been placed under easement. The nearly 50 properties currently protected through preservation easements with M-NCPPC reflect a range of architectural styles and time periods in rural, suburban, and urban locations. It is the hope of M-NCPPC, as the qualified easement holder, that these plaques will serve not only to identify buildings of historical and architectural significance but also will encourage, through heightened community awareness, the continued care and preservation of individual buildings and neighborhoods.

Owners of properties in the Preservation Easement Program who have received Historic Property Grant awards are required to participate in the Historic Marker Program. Property owners in the Preservation Easement Program should contact staff at 301-952-3620 to discuss appropriate locations for installation and coordinate delivery of their marker.

M-NCPPC Marker Agreement

The marker recipient must sign an agreement accepting the following terms:

1. The plaque must be placed on an exterior wall of the building, or wall of the property, so that it can be seen by the public, if possible. Any divergence from such placement must be approved by M-NCPPC.
2. M-NCPPC, as easement holder, retains ownership and control of the marker and reserves the right to recall the marker.
3. The owner agrees to notify M-NCPPC to approve any intended alterations and will apply to the Easement Committee to approve such changes.