

BURLINGTON COUNTY FARMLAND PRESERVATION PROGRAM

EASEMENT PURCHASE PROGRAM: QUESTIONS AND ANSWERS

Your property has been targeted for inclusion in Burlington County's Farmland Preservation Easement Purchase Program. This form has been prepared to give you basic information about the program and answer common questions that many applicants have.

Q. WHY ARE YOU CONTACTING ME?

A. The Burlington County Board of Chosen Freeholders has directed the Department of Resource Conservation to identify areas of the County – called Agricultural Development Areas (ADAs) – most appropriate for the long-term preservation of productive agricultural lands. Your farm is located in one of several areas that the Burlington County Agriculture Development Board (CADB) has selected for inclusion in an ADA. The criteria for inclusion in an ADA are that the land contains a predominance of high quality soils, is relatively free from conflicting residential development, and is not located in a planned growth area. The CADB annually identifies the highest quality and most threatened farmland within the ADA and invites the owners of these properties to participate in the Easement Purchase Program.

Q. WHAT IS A PRESERVATION EASEMENT?

A. An easement is a right. A "preservation easement" is a recorded document that limits the type and amount of development that may occur on a property. You may own a particular farm property "fee simple," meaning that you have all rights to occupy, use, and enjoy the land. One right that you have is the right to develop that property for commercial, residential, or other use as prescribed in your Township's zoning ordinance. When we say that we would like to "purchase an easement," we mean that we would like to purchase only the development rights associated with property so that it is preserved as farmland for the future.

Q. IF I SELL THE COUNTY A PRESERVATION EASEMENT, DO I STILL OWN THE LAND?

A. Yes. You are simply insuring that your farmland will be preserved for future generations. You still own the farm and may continue to enjoy its use.

Q. WILL SALE OF THE DEVELOPMENT RIGHTS TO MY LAND REDUCE ITS VALUE?

A. Yes. If you ever sell your land after having sold the County an easement, you will likely receive a lower price because you have already sold part of your interest in the land through the easement sale.

Q. IS THERE A MARKET FOR DEED RESTRICTED FARMLAND?

A. Yes. Due to its relatively low cost, there is a high demand for deed-restricted farmland among established farmers looking to increase their landholdings and new farmers who want to purchase affordable farmland. Some participants in the program have sold their development rights as a first step to selling the farm. Farmland Preservation Program staff are available to discuss recent sales of deed restricted land.

Q. HOW DO YOU DETERMINE THE VALUE OF MY DEVELOPMENT RIGHTS?

A. The easement value of your farm is affected by a number of variables—including location, zoning, road frontage, soil types, and wetland characteristics. To determine the easement value, two state-certified appraisers will be hired by the County to appraise your property. Each appraiser values the fee simple or “before easement” value of your land and its restricted or “after easement” value. The difference between the two values is the appraised value of your “development rights,” or what the County will pay you for your development easement.

For example:

Before	=	\$7,000/acre	=	Value of land unrestricted
After	=	\$3,000/acre	=	Value of land if restricted
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Payment	=	\$4,000/acre	=	Value of development rights (The price the County would pay to preserve the land.)

Q. WHY SHOULD I SELL MY DEVELOPMENT RIGHTS TO THE COUNTY?

A. Landowners have chosen to participate in the program for many reasons. Some farmers do not plan to develop their property, and appreciate the ability to access some of the land’s equity while continuing to farm. Proceeds from easement sales have been used, for example, for the payment of debts or to finance needed capital investments. If you intend to pass the farm on to heirs, selling your development rights may offer special tax advantages. Finally, easement sale provides compensation for farmland preservation – a particular benefit for landowners confronted with the possibility of being zoned into preservation. Only you can determine if the benefits of the program will work for you and your family. [See also, “Potential Advantages to Program Participants.”]

Q. IF DEVELOPERS CAN OFFER ME A HIGHER PRICE, WHY SHOULD I SELL TO THE COUNTY?

A. One advantage of selling your development easement to the County is that the County offer is not subject to the multitude of conditions that developers frequently include in their agreements. Developer purchase offers are almost always based on numerous contingencies, such as approval of their development plan at certain densities and receipt of necessary state, regional, or local permits. The municipal review and approval process takes two or three years and the plan may ultimately be rejected. You may see very little, if any, money up front while you carry a substantial portion of the investment risk. It is important to understand that the County is purchasing only the development value of your farmland and that you retain the value of the land as a farm and, if applicable, a residence. Based on the resale of restricted farmland throughout the state, that value can be substantial.

Q. IF I SELL TO THE COUNTY WILL THE PUBLIC HAVE THE RIGHT TO COME ON MY PROPERTY?

A. No. The public is not granted any right to use your land. Burlington County elected officials remain strong proponents for the strengthening of right-to-farm laws and ordinances to protect farm properties that are preserved under the program.

Q. IS THIS PROGRAM OPEN TO EVERY FARM OWNER?

A. No. The Burlington County Agriculture Development Board has developed and is continuing to refine criteria for inclusion in the program. The County's funding, though substantial, is limited. At the present time, the County is maximizing the use of dedicated funding by focusing on the preservation of larger, "reasonably contiguous" agricultural areas.

Q. WHAT DO I NEED TO DO TO BE CONSIDERED FOR THE PROGRAM?

A. Only those farms on the County's Acquisition Targeting List (ATL) are eligible to apply each program year. If your farm is on the list, you need only to submit the application prior to the application deadline. If your farm is not on the ATL, you must complete and return a Petition for Consideration to be included on the Acquisition Targeting List.

Q. WHEN WILL I KNOW IF I HAVE BEEN PLACED ON THE ACQUISITION TARGETING LIST?

A. The CADB updates the Acquisition Targeting List periodically. You will know that your farm is on the list if you have been invited to submit an application.

Q. DOES THE COUNTY'S FOCUS ON LARGE FARMS MEAN THAT THE COUNTY IS NOT INTERESTED IN SMALLER FARM PROPERTIES?

A. Not necessarily. Although program emphasis is placed on large farms of high soil quality, participation in the program may depend on the configuration of the applications submitted. The size threshold for program participation is 20 acres. It is possible, however, that certain smaller farms that support or build on a developing project area would be accepted.

Q. AFTER I SELL MY DEVELOPMENT RIGHTS TO THE COUNTY, CAN I BUILD A HOUSE FOR A CHILD OR OTHER FAMILY MEMBER?

A. Not necessarily. You may be eligible for one or more Residual Dwelling Site Opportunities (RDSOs) or an "Exception" for a housing opportunity. For a further description please refer to the enclosed information sheet entitled, "Housing Opportunities and Exceptions from Deed of Easement Restrictions".

Q. I HAVE A NON-AGRICULTURAL USE ON MY PROPERTY OR MAY WANT TO ESTABLISH ONE IN THE FUTURE. IS THIS ALLOWED?

A. Non-agricultural uses that have existed on the property prior to the time an application is submitted are allowed to continue. New uses would only be permitted if an area of the property is "excepted" from the easement. Current policy allows for the main house and associated structures to be excepted from the standard restrictions that are imposed when the development rights are sold. Excepted land, however, cannot be sold separately from the farm.

Q. HOW MANY FARMS ARE CURRENTLY ENROLLED IN THIS PROGRAM?

A. Burlington County leads the rest of the counties in New Jersey in the acquisition of development easements through the Farmland Preservation Program. Since the inception of the program in 1985, Burlington County has permanently preserved over 18,000 acres on over 140 farms. Five townships have achieved the preservation of closely-knit 1,000+ acre blocks of viable farmland.

Q. WHEN WOULD THE COUNTY BUY MY DEVELOPMENT RIGHTS?

A. The process begins now. The County reviews all of the applications submitted by the application deadline. Following preliminary approval, it is anticipated that landowners will be made an offer within six months. Once a contract of sale is executed, the easement sale will close within approximately six months. In the event that a large number of applications are received, the appraisals and, consequently, offers would be done in batches so the timeline might be slightly longer.

Q. IS THERE A DEADLINE FOR SUBMITTING AN APPLICATION TO THE COUNTY FOR PARTICIPATION IN THE PROGRAM?

A. Yes. The date is stated in the information packet mailed to owners of farms on the current Acquisition Targeting List.

Q. WHAT HAPPENS AFTER I SUBMIT MY APPLICATION?

A. All applications are reviewed by the Burlington CADB to determine their relative ranking according to the CADB's adopted criteria. The criteria include soil quality, tillable acres, septic limitations, farm size, location to other applications, proximity to existing non-agricultural development, and municipal commitment. Based on the results of the ranking, the County will determine which applications will receive preliminary approval. Approved farms are then appraised in order to determine their easement value. *Note: Based on the farm soil mapping, "field studies", possibly including soil sampling and water table studies, **may** be conducted on some farms before they are appraised. No work will be performed without landowner consent.*

Q. AM I REQUIRED TO SUBMIT A BINDING OFFER WITH THE APPLICATION TO SELL THE DEVELOPMENT RIGHTS ON MY PROPERTY FOR A CERTAIN PRICE?

A. No. The landowner is not required to specify a price for which he or she promises to sell to the County. The County will have two appraisals conducted on the farms that receive preliminary approval. The County's offer to purchase will be based on the fair market value of the development easement as reflected in the appraisals.

Q. AM I REQUIRED TO ACCEPT THE COUNTY'S OFFER?

A. No, the Easement Purchase Program is entirely voluntary. After you are informed of the offer you can either accept the value or reject it and "walk away."

Q. HOW DO I GET MORE INFORMATION ABOUT THE PROGRAM?

A. Contact Farmland Preservation Program Staff at the Department of Resource Conservation:

Mailing address: P.O. Box 6000
Mount Holly, NJ 08060

Physical address: 1900 Briggs Road
Mount Laurel

Phone: (856) 642-3850

Fax: (856) 642-3860