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By **Tonie Auer**

TWO YEARS AGO, the owners of a 40,000-acre ranch in West Texas made local landowners sit up and pay attention: the ranch owners put a conservation easement on the property along the pristine Devil's River. This means that the land can't be subdivided or used for anything except agriculture, ranching or recreation. The easement comes with two big advantages, says Houston-based Republic Ranches partner Jeff Boswell. Not only will the landowner preserve the unique ecosystem along this spring-fed river in the desert, he will also benefit from tax incentives. It's a common practice in the U.S.

A conservation easement is a voluntary, legally binding agreement that limits it to certain types of uses, prevents current and future development, and protects the property's ecology and open spaces. The landowner agrees to sell or donate certain rights associated with his property; a forfeiture that endures regardless of ownership changes. Because use is permanently restricted, land subject to a conservation easement may be worth less on the open market than comparable unrestricted parcels with development potential. But the trade-off is lower property taxes and wildlife and habitat preservation.

STATE TAX INCENTIVES

Often, wealthy individuals want to preserve their land for their families and posterity, and qualify for lower inheritance taxes, Mr. Boswell says. There are also state tax incentives. (Currently 15 states offer tax credits for donation of conservation easements.) Mike Brady, a broker at Santa Ynez Land/Sotheby's International Realty, in Santa Barbara, Calif., says that

The Williamson Act makes grazing land in California an excellent wealth-preservation tool.



California offers multiple tax advantages and cash payments for relinquishing development rights or keeping land in agriculture. These can reduce the cost of holding large pieces of land and provide tax benefits, he says.

in annual taxes) rather than on the land's value, (which could be around \$10,000 per acre, yielding about \$110 per acre in property taxes annually), Mr. Brady says. Multiply the per-acre saving by hundreds or thousands of acres

over 10,000 acres with which he's worked have gotten conservation easements. For many it's like a charitable donation, but the tax deductions (30%-50% of the adjusted gross income) have a shelf life of about 15 years.

"IT'S AN ALTRUISTIC THING; DO IT BECAUSE YOU WANT THE PROPERTY TO BE PRESERVED IN PERPETUITY."

For example, The Williamson Act, Agricultural Preserve Contracts in California provides a tax break for grazing land because the tax calculation is based on the annual agriculture income (\$15 annually for grazing land, about \$5 per acre

and it makes grazing land an excellent wealth-preservation tool, he adds.

The larger the ranch, the bigger the impact of the easement and the tax breaks. Mr. Boswell says more than one-third of the ranches

Conservation easements affect how land is valued by appraisers and the IRS, says James Taylor, a broker at Hall and Hall based in Billings, Mont. He cautions landowners to consider all the implications of the easement,

from the hit on the land's resale value to the actual tax benefits received. "It's an altruistic thing; do it because you want the property to be preserved in perpetuity, but know that it will impact the value of the land," Mr. Taylor says.

STRONG MARKET

The easements can hurt sales, says Gregory Fay, owner of Fay Ranches in Bozeman, Mont. A listing for a large ranch with a conservation easement can put off prospective buyers, because they want to get the tax breaks by instituting the easement themselves. In today's strong market, many don't care. Mr. Fay helped Memphis-based Dunavant Enterprises sell Crazy D Ranch's 12,000-acre Montana ranch with the conservation easement already in place. He is also selling Dome Mountain Ranch in southern Paradise Valley, Mont., for \$25 million. A critical conservation imperative because of its importance to Yellowstone Park's elk herd, the ranch is a strong candidate for easement with a significant tax incentive.

The benefits of donating a conservation easement are similar to donating money to a charitable organization, says Austin-based Engel & Völkers real estate advisor Rodney Gressett. Ultimately, the donor of the easement could potentially claim, and deduct, the full-price of the land from their tax liability. The easement value is higher closer to cities and heavy developments, which results in greater tax benefits.

"The tax incentive is real," Mr. Fay says. It played a role in his family's decision to put an easement on their own 1,000-acre ranch. He says about one-half to one-third of his clients use them effectively. In the Northern Rockies the easements have saved entire valleys, protecting wildlife and keeping land in agricultural production.

Tonie Auer is a freelance writer specializing in real estate

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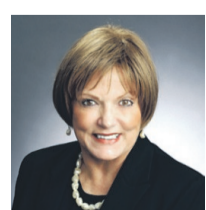


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