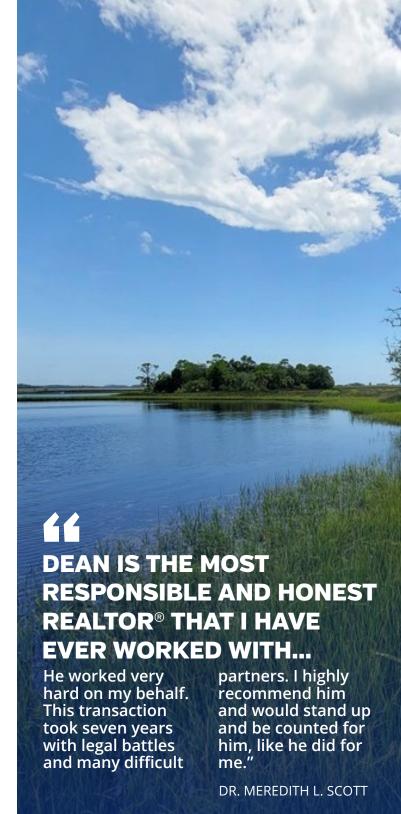
## CONSERVATION EASEMENTS





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#### INTRODUCTION

This book aims to provide insight and answers to your questions about Florida conservation easements and other landowner rights.

Created and compiled by Dean Saunders, this booklet brings together his extensive knowledge and experience on conservation easements. As an Accredited Land Consultant (ALC) and a member of the Florida Legislature from 1992 to 1996, Dean spearheaded the action to establish the Green Swamp Land Authority. As a result of his efforts, the first Florida state agency was created to purchase development rights from landowners.

His work was instrumental in successfully passing the law requiring Florida state agencies to purchase a specific number of conservation easements each year.

Dean's extensive knowledge comes from years of working with conservation easements in the legislature and real estate. His expertise is outlined here for you with the vital information you need to know about selling your land development rights or a conservation easement.

The purchase of conservation easements by federal, state, and local governments and conservation organizations is growing.

## IF YOU ARE CONSIDERING A CONSERVATION EASEMENT

When you purchase land, you also buy a bundle of rights. These rights include, among others, the right to develop and the right to minerals and water. Collectively this bundle of rights is called "fee title."

As a landowner, you can also sell some of these rights while maintaining ownership of the land. This is generally known as selling a "less-than-fee" interest. A conservation easement is a form of "less-than-fee" interest.

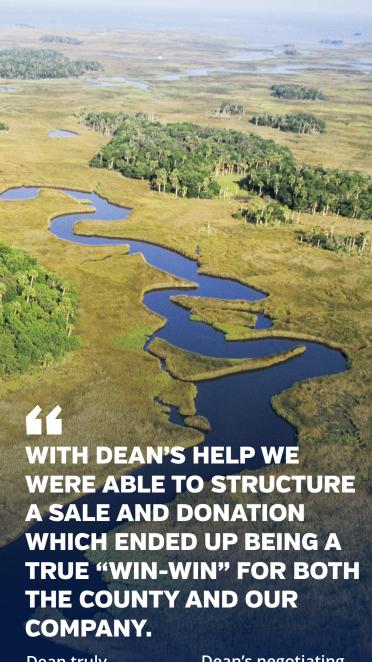
You are compensated when you choose to give up some of these rights, either by donation or sale. The more rights you relinquish to the recipient, the more compensation you'll receive, tax benefits, direct dollars, or both.

With the tourism and population boom in Florida, land is more valuable than ever. Some landowners would like to preserve their land's beauty and function and profit from the increased value. Others want their land to stay in the family but worry that estate taxes will force their heirs to sell.

Landowners who sell conservation easements control the ownership of the property and collect money for the easement. The government receives assurance that valuable land will be protected from future development.

#### What is a Conservation Easement?

A conservation easement is a restriction on the use of property similar to a deed restriction. It is recorded in public records and generally is in perpetuity.



Dean truly understands that for a deal to be a good deal, it must work for both the buyer and the seller.

Dean's negotiating integrity was of paramount value during the entire process."

CARLOS VERGARA Landowner



#### **BENEFITS**

#### TO THE SELLER OR LANDOWNER

- The landowner maintains control and ownership of the property.
- The landowner benefits by keeping the land and getting paid for the appreciated value caused by development pressure.
- The landowner assures the property is protected for future generations.
- Future generations are assisted in transfer of the land by favorable estate tax treatment.
- Landowners continue to receive income from their land.
- Landowners may gain income tax advantages (see page 14).
- The property may be sold and the restriction travels with the property.

#### TO THE BUYER OR RECIPIENT

- In the case of a donation, the buyer or recipient of land conservation easements may be the federal, state, or local government or a qualified conservation organization.
- The buyer can protect more resources with fewer dollars by buying rights to land and not the land itself.
- The buyer aquires land in conservation that might otherwise be unavailable (i.e., the landowner isn't interested in selling the land but only a conservation easement).
- The land continues to provide economic activity.
- The land stays on the tax roll.
- The property may be sold and the restriction travels with the property.

#### CHARACTERISTICS OF ACQUIRED LAND

The requirements or characteristics that make land eligible for an easement are determined by location and the unique qualities that the land possesses.

- Is the land home to endangered plants or animals?
- Does the land contain unique water resources or part of a more extensive water system?
- Is it adjacent to government land?
- How much acreage is available?
- · Was this land a previously converted wetland?
- Is the land in an Area of Critical State Concern (such as the Green Swamp)?

## How is a Conservation Easement Valued?

An easement is valued with an appraisal from a qualified appraiser.

The value of a conservation easement is determined by taking the fair market value of the land and subtracting the value of the land with the restrictive covenants.



MR. CASEY LIGHTSEY
Lightsey Cattle Company



His connections with nonprofit agencies, funding mechanisms, and private landowners helped to assist us in acquiring natural

and agricultural lands for public use. Dean uniquely bridges the gap between private property inventory and public ownership."

RANDY MATHEWS
Environmental Lands
Coordinator, Osceola County
Environmental Lands

## PERMITTED USES AND RESTRICTIONS

The permitted uses and restrictions of the land are generally negotiated between the buyer or recipient, and the seller, and are designed to meet the needs of both.

#### Permitted uses by the landowner include:

- Low-intensity agriculture such as livestock grazing, timber, sod, and some truck crop farming
- Limited housing units for family members
- Limited subdivision of land
- Recreational uses including hunting, fishing, and eco-tourism activities
- Other uses negotiated between the buyer and seller

#### **General Restrictions Include:**

- Development of property
- Some agricultural uses
- · Significant subdivision of property
- Harvesting of wetland timber
- Road construction (except that required for management)
- Mining

## TAX ADVANTAGES AND IMPLICATIONS

Landowners may receive income tax advantages, including gifts, tax-deferred exchanges, and gains used against the basis value. Tax advantages can also assist in the transfer of property from generation to generation. An easement can lower estate taxes for heirs by maintaining the agricultural classification of the land.

#### **GENERATIONAL TRANSFER**

A transfer may benefit a landowner by lowering the value of the property for estate tax purposes. This happens because after the rights to develop it are sold, the highest and best use of the land is usually agricultural. Other than the obvious tax advantages, this strategy has several long-term benefits.

- First, families can keep the property by avoiding a crushing estate tax that robs them of money and land.
- Second, the landowner gets money for the land but gets to keep the land too.
- Third, this strategy ensures that future generations will enjoy the land's beauty.

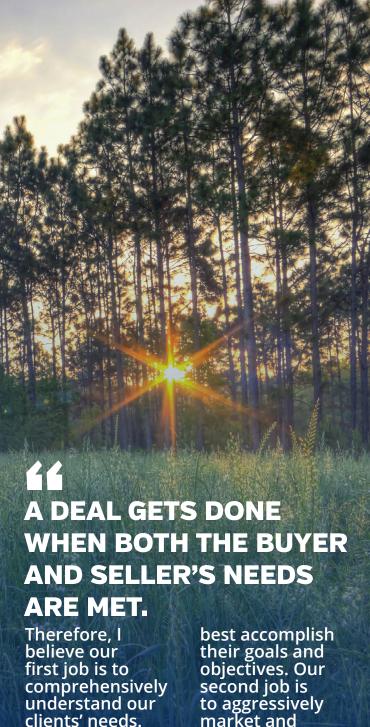
#### **GIFTING**

This is a donation to the government or a qualified conservation organization. Gifting is treated as a charitable contribution and results in lower federal income tax.

#### TAX-DEFERRED EXCHANGE

The IRS allows landowners who owe capital gains taxes due to property sale to defer paying the tax by purchasing another piece of property instead of paying the tax. Known by several terms, this is often referred to as a tax-deferred exchange, a like-kind exchange, or a 1031 exchange.





market and accomplish their goals and objectives."

**DEAN SAUNDERS** Founder SVN | Saunders Ralston Dantzler Real Estate

The IRS also allows an exchange for owners who have a capital gain due to the sale of a conservation easement. See Case No. 1 for an example of how this might work for you.

#### GAINS USED AGAINST BASIS

Basis is the amount you paid for the property, plus the value of any capital improvements, less any depreciation claimed. If you sell a conservation easement, the IRS will allow you to reduce your basis by the amount of the conservation easement, resulting in you not paying any capital gains taxes. See Case No. 2 that uses this tax advantage.

#### **HOW DO I TAKE ADVANTAGE** OF TAX BENEFITS?

To take advantage of a federal income tax deduction, an easement must be perpetual and given to a specific government division or a conservation organization. Annually, the division or organization monitors the property to assure that the easement is not being violated.

#### IS THERE A DOWNSIDE?

Landowners continue to own the property after establishing an easement; however, they give up their rights and the rights of future owners to change the designated use of the land. Conservation easements are permanent (perpetual) and cannot be altered; therefore, landowners should consider all aspects of an easement. Landowners can sell or lease the property with an easement, but all future owners must maintain easement requirements.

#### **HOW OFTEN WILL MY LAND BE** MONITORED?

Usually, it is monitored by an inspector who will make an annual appointment with you to assure that you are in compliance with the easement.

#### WILL THE PUBLIC HAVE ACCESS TO MY LAND?

No, not without your permission.

We work with our

clients to develop

a strategy to

## A LOOK AT TWO CASE STUDIES

#### CASE NO. 1

**Landowner:** A successful man who has been a rancher for decades. The land was purchased over 45 years ago for \$500 an acre. Some of the land is located on what is now considered a prime location for growth.

**His Objective:** He wants his grandchildren to have the opportunity to get to know and love the land that he has worked for his lifetime. He is concerned that developers could persuade his children to sell the land. The calls have been coming for years, even more so now. He would like the land to stay in his family but be preserved as it is.

**Current Market Value:** Today's value of his land is \$6,000 per acre.

**The Buyer:** The state is interested in buying a conservation easement on this land. If he sells his land rights or a portion of them to the government, he will receive \$3,000 per acre for the conservation easement.

**Tax Issues:** Because this landowner bought his land long ago at a low cost by today's standards, he will have a substantial capital gain of \$2500 per acre. At the current capital gains rate of 15%, he will owe \$300 per acre in taxes. To defer paying taxes on that gain, he can sell the rights to the state, do a 1031 exchange for another property, and defer payment until the second property is sold.

**End Result:** This landowner will continue to own and work the land and pass it on to his heirs, but the right to develop is gone due to the agreement he made with the state. The original land remains preserved, and because he completed a 1031 exchange, his heirs will ultimately inherit two pieces of property.





### 44

# WHEN WE PURCHASED CAMP LONESOME, WE WERE INTERESTED IN CONSERVING THIS BEAUTIFUL TRACT OF LAND.

THE FACT THAT THE RANCH WAS ON THE FLORIDA FOREVER "A" LIST ADDED TO THIS INTEREST AND OPPORTUNITY. EVEN THOUGH DEAN REPRESENTED THE SELLER OF CAMP LONESOME RANCH, AS BUYERS WE QUICKLY
REALIZED THAT HE
HAD TREMENDOUS
KNOWLEDGE AND
A PASSION FOR
CONSERVING THESE
RAPIDLY DISAPPEARING
TREASURES IN FLORIDA'S
LANDSCAPE."

CARLOS VERGARA Landowner

#### CASE NO. 2

**Landowner:** Ten years ago, this landowner inherited his father's extensive land holdings, which had been purchased 45 years before for \$500 an acre. This land has been in his family for generations, and there is no desire to develop the land.

Inheritance taxes were based on the value of the property on the day of the father's death. At that time, the basis of the property was adjusted upwards or "stepped up" to \$2,500 an acre. Any future capital gains would use \$2,500 as its basis.

**His Objective:** To keep the land in the family without being forced to sell to developers.

**Current Market Value:** Today, a decade later, the land is worth considerably more than the "stepped up" basis of \$2,500 per acre (per an appraisal). The family decides they would like to sell a conservation easement. The conservation easement is appraised at \$2,300 per acre.

**The Buyer:** A qualified conservation organization interested in the land's pristine condition and several endangered wildlife species buys the rights for \$2,300 per acre.

**Tax Issues:** This taxpayer will not pay any capital gains taxes because the amount he is paid for the easement, \$2,300 per acre, is less than his adjusted basis of \$2,500 per acre. The landowner now has \$2,300 per acre on which he doesn't have to pay tax, and his new tax basis is \$200 per acre.

(\$2,500 -\$2,300 = \$200 per acre)

**End Result:** The land stays in the family who loves the land, its beauty, and its natural resources. If you love the land and want to see it preserved, a conservation easement might be the perfect solution for you. Let SVN | Saunders Ralston Dantzler Real Estate help you preserve your future.

Note: Because cases and their future implications vary so widely, we encourage you to include your attorney and CPA in this decision. SVN \ Saunders Ralston Dantzler Real Estate can provide the latest information and legislation.

## THE SAUNDERS COLLECTION

#### **NATURAL LANDS OF FLORIDA**

Forever appreciating the now too rare natural Florida landscape, Dean Saunders continues to pursue ways to capture and conserve the state's natural beauty. As a sixth-generation Floridian, Saunders knows the natural Florida landscape that he enjoyed as a young man is a precious commodity for our future.

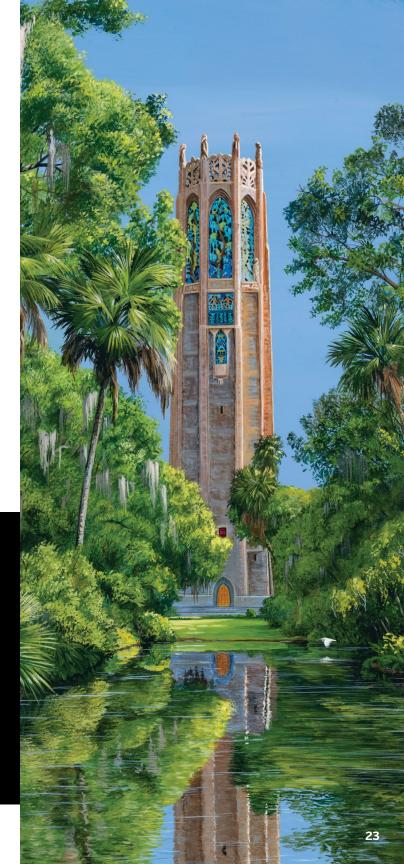
Each year, a different Florida landscape scene is selected by Saunders to be painted by well-known naturalist and landscape artist.

The commissioning culminates in a preview of the painting at an annual SVN | Saunders Ralston Dantzler Real Estate event in the fall.

The collection display can be seen at our office.



"Everglades Feeding" C. Ford Riley



## 44 **NATURAL FLORIDA LAND** HAS A BEAUTY THAT YOU **CANNOT FIND ANYWHERE ELSE.** IT IS A DISTINCT PRESERVING IT BOTH IN LANDSCAPE WITH NATURE AND IN ART IS UNIQUE WILDLIFE. **IMPORTANT TO ME." DEAN SAUNDERS**

Founder SVN | Saunders Ralston Dantzler Real Estate

#### **ABOUT US**

SVN | Saunders Ralston Dantzler Real Estate was founded by Dean Saunders as Saunders Real Estate, LLC in 1996 with a focus on land and conservation work that continues to be its hallmark.

Our team of real estate professionals are experts in the field of agricultural real estate, including the top land broker in the country and former operators of some of the largest citrus and agricultural operations in the state. Our experience includes successfully completing hundreds of millions of dollars (billions) in strategic dispositions of the type involved in this proposal.

SVN | Saunders Ralston Dantzler Real Estate is recognized as a national leader in land brokerage, our founding specialization and the continued flagship service of our firm. We are experts in all types of Florida land – citrus, farmland, timber, ranch, recreational, transitional, and conservation. Representing buyers, sellers, investors, institutions, and landowners, we have brokered over \$4 billion in land real estate transactions since 1996.

We have been recognized as one of America's Best Brokerages by The Land Report, the nation's premier land publication, since the inception of their national leadership list over ten years ago. In 2020 and 2018 our founder, Dean Saunders, was awarded the APEX Top National Producer Award. This award is given by the Realtors® Land Institute (RLI), the National Association of Realtors® land organization, and The Land Report Magazine based on assessment of land sales by brokers across the country.

We offer proven experience, expert knowledge, excellent customer service, unsurpassed marketing services, and business savvy to create solutions for land, commercial real estate, land and resource management, and conservation easements.

## ABOUT DEAN SAUNDERS

Dean Saunders has a unique mix of experience in agriculture, real estate, and government. As an 8th-generation member of a Florida agriculture family, he knows land, as well as the needs of ranchers, growers, farmers, and commercial interests. His perspective is a result of both private and public service.

As a former member of the Florida House of Representatives, Saunders assisted in the creation of important property rights and conservation legislation to benefit both landowners and the environment. He served as Agricultural Liaison, Special Assistant, and Director of External Affairs to U.S. Senator Lawton Chiles and then Governor Chiles.

Saunders is a licensed real estate broker and is certified as an Accredited Land Consultant (ALC) by the Realtors® Land Institute (RLI), then one of only 1,000 brokers nationwide. He is past president of the Florida Chapter of Realtors® Land Institute and former chairman of the Florida Real Estate Commission.

In 2020 and 2018, he was awarded the APEX Top National Producer Award. This award is given by the Realtors® Land Institute (RLI), the National Association of Realtors® land organization, and The Land Report Magazine based on assessment of land sales by brokers across the country.

In 2003, Saunders was selected by the National Association of Realtors®, along with Alan Greenspan, then four-term chairman of the Federal Reserve Board, as one of the exclusive nine "Notables." As a Notable, Saunders is considered by his peers to be among the powerful professionals impacting real estate nationally.

He continues to recieve recognition which has included "Legislature of the Year" from multiple organizations during his tenure in the state legislature. He has been awarded by corporate and industry organizations including the National Association of Realtors®, Florida Gulf Coast Association of Realtors®, Central Florida Commercial Association of Realtors®, Florida Real Estate Commission.



