

Case Study 11 Essex County Greenbelt: A ‘typical’ American land trust

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PPAs in the United States are often established, monitored and sometimes managed by specialised organisations called land trusts. Permanence is secured through legal means embedded in the land tenure system (Best Practice 4.1.1), and incentives are largely derived from the voluntary surrender of development rights, and reduction of real estate, income and other taxes associated with the value of those rights (Best Practice 3.7.4).

A ‘typical’ American land trust

The Essex County Greenbelt Association (‘Greenbelt’) takes its name from a jurisdiction north and east of the city of Boston, in Massachusetts, and an initial effort to protect remaining forests and fields from an expanding metropolitan area. Since 1961, this private land trust has protected over 7,000 ha throughout its region. How those areas came to be protected is indicative of the way Greenbelt works, and is similar to other land trusts across the United States.

In approximately 1,600 ha, Greenbelt assisted in the conservation of private land, to be owned and managed by other NGOs, municipal governments or state conservation agencies. But for the remaining nearly 5,500 ha, the organisation retains a legal interest in the land, in two very different ways. Just less than half the land is in freehold ‘private’ reserves, numbering 362 in all. This means they are

wholly owned by the NGO, a ‘private’ organisation with public purpose (‘private’ in quotes because Greenbelt maintains public access to all of them). Most of these properties would meet the IUCN definition of a PPA as they have a primary conservation objective, alongside recreation, education, etc. The expectation is that Greenbelt will own, protect and manage these areas in perpetuity. An example is the Allyn Cox Reservation which was donated to Greenbelt in 1974 and serves as the NGO’s headquarters. A 12 ha tract of coastal upland and salt marsh, the Reservation, is a very popular public destination for walking, wildlife observation and outdoor events.

An additional 2,800 ha are protected in conservation easements. Easements, or restrictions as they are called in Massachusetts, restrict the allowed uses of a property but keeps it in private ownership. Easements are often described in terms of the ‘bundle of sticks’ analogy of real property ownership (Best Practice 4.2.1). Property easements generally refer to only a proportion of the rights that a landowner might have: for example mineral rights, access rights, the rights to build houses and so on. Conservation easements address rights that had rarely, if ever, been transferred before, such as the power to prevent or prohibit certain activities on the property, and so the easements by which they were granted were called ‘negative easements’. (Not all easements would meet all the criteria of PPAs, but many do.)

Traditionally, the law in the United States had been averse to perpetual restrictions on the use of land (that is, restrictions



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that would be permanent, or effective in perpetuity) and this extension of the concept of easements required statutory modifications to the common law, embodied in the Uniform Conservation Easement Act, which was adopted by the National Conference of Uniform State Laws in 1981. This law provided that conservation easements would exist in perpetuity and that they were binding on all subsequent landowners (Best Practice 4.1.7). It also removed the common law requirement that the entity to whom the easement is granted holds other land adjacent to or nearby the restricted parcel. Though conservation easements 'take away' certain rights forever, and are recorded on the land title, the rights cannot just disappear, they must be held by another entity. Thus, the role of Greenbelt and land trusts like it. Greenbelt holds restrictions on 222 properties for which they must monitor compliance and, if it comes to it, enforce the terms of the easement.

Because conservation easements lower the theoretical real estate value of a property, benefits can accrue to the landholder in the form of reduced property and income taxes. Donors of freehold reserves, as well as donors to support land trust operations, may qualify for income tax benefits as well. These are powerful incentives (see Principle 3.7).

PPAs across the USA

Greenbelt is one of over 1,300 land trusts across the country (Land Trust Alliance, 2015). Despite the title of this case study, there is no 'typical' land trust. Greenbelt has 14 people on its permanent staff. Some land trusts, like The Nature Conservancy, are much larger organisations, but most are smaller than Greenbelt. Some land trusts have no paid staff at all. The majority of land trusts have adopted 'Standards and Practices' promulgated by the Land Trust Alliance,

and to date more than 400 land trusts have been certified as meeting high standards by the Land Trust Accreditation Commission.

Of course, there are many kinds of PPAs other than land trusts in the US. Some result from entirely individual initiative and, in fact, all PPA subtypes are represented. Particularly worth noting are permanent academic research areas. Many universities were established by land grants early in the country's history. Land was given by the state to be sold over time to finance the college, but some areas were reserved for ecological research and remain as PPAs today.

Private land conservation in the United States is characterised by an emphasis on perpetuity of protection and fuelled by an array of incentives, largely in the form of tax relief that may accrue to the landholder. However, it would be wrong to conclude that land conservation is an entirely economic decision. Many studies have shown that landholders' primary motivations are not economic but intrinsic, with incentives making it possible to act on a sense of stewardship (see Principle 3.4) (for example, Farmer et al., 2016). As stated by landowner George Leonhard on why he and his brother protected their farm with a conservation easement granted to Greenbelt, "I could not bear to look at the property with houses all over it."

Summary

- Land protection mechanisms and incentives can be adapted from existing laws and regulations (Best Practice 3.7.4).
- With a highly developed land-tenure system, permanent protection can be secured by attaching restrictions on land title itself, rather than any particular landholder (Best Practice 4.1.1).
- Incentives can be durable when value-based and integrated with market systems (Best Practice 3.2.1).
- Personal stewardship and professional intermediary organisations are important to establishing, managing and monitoring privately protected areas (Best Practice 8.2.1).