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Easement Does It



All Natural Preserves: Chestnut Hill's Anglecot is one of many historic properties in the area protected by a preservation easement.

Voluntary agreements to preserve the past pay off in the future.

by **J. Randall Cotton**

Twenty-six acres and some 19th-century farmhouses in Roxborough. Architect Wilson Eyre's Queen Anne-styled Anglecot in Chestnut Hill. A factory in Chinatown where bentwood rockers were once made. A Chester County modernist house by noted architect Oscar Stonoroff. The beaux-arts headquarters of the commandant of the Philadelphia Naval Shipyard. A 19th-century stone bank barn in Montgomery County. The original high-rise Center City offices of both Bell Atlantic and Atlantic Richfield. The sprawling factory complex where Atwater Kent radios were originally manufactured.

What do these varied historic properties have in common? None are protected by local preservation ordinances, yet all *are* protected by what is essentially a private agreement in which all current and future owners are obliged to maintain the historical appearance of these properties. The mechanism for this protection is called a preservation easement.

Easements are a popular preservation tool throughout this country. Preservation organizations in New York City, Washington D.C., New Orleans, North Carolina and Indiana have active easement programs. The Landmarks Preservation Council of Illinois protects more than 240 historic properties in greater Chicago with easements.

The Preservation Alliance for Greater Philadelphia began accepting preservation easements in this region in 1979 and today holds more than 170 easements on historic properties ranging from Center City skyscrapers, to landed estate houses, to converted factories in Old City, to townhouses in the Society Hill and Rittenhouse Square neighborhoods -- and including all the properties listed above.

Most easements protect individual properties, but when concentrated in one area, they can also protect neighborhood character. For example, much of the distinctive identity of Chestnut Hill is not protected by a local historic district but rather by more than 40 easements held by the Preservation Alliance and the Chestnut Hill Historical Society.

How does a preservation easement work? First, in almost all instances, it's a *voluntary* arrangement. Owners of historic properties willingly grant the easement holder (a governmental agency or nonprofit organization like the Preservation Alliance) the legal right to compel the current and all *future* owners of the property to maintain and protect the historic character of the property. In doing so, however, the owner retains all other property rights, including all zoning and use rights granted by law, and the right to sell the property at will.

The donation of an easement, and the terms and conditions of the easement negotiated between the two parties are recorded against the deed of property. An easement donation can be made by individuals, a partnership, a corporation or an estate.



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voluntarily give an easement: Some genuinely care about the historic character of the property. Some care because the historic character is protected after they no longer own the property. Some care because they want to preserve the historic character of a historic townhouse for which the deceased owner prescribed

The other reason is that the federal government allows donors of preservation and conservation (open-space) easements to take a federal income tax deduction equivalent to the monetary value of the easement. (Easement properties eligible for the tax deduction must be listed on the National Register of Historic Places.) That amount is determined by an independent property appraiser who calculates the theoretical value of the property rights given up in the easement donation. The principle is the same as donating a work of art to a museum: An independent appraiser determines the free-market value of the painting and that's the amount that is deductible as a charitable donation.

The appraised value of the easement donation depends on circumstances specific to each property. But easement evaluations for historic Center City commercial and residential properties have been averaging about 15 percent of the fair-market value of the property. An open-space easement -- which effectively extinguishes all or most of the development rights on land associated with a historic building -- may be appraised as high as 80 percent of the land's fair-market value.

Historic interiors can also be protected by a preservation easement. For example, the historic interior of Caldwell Jewelers -- which is closing its Center City showroom in the Widener Building -- could be protected by a preservation easement, something that cannot be done under the city's current preservation ordinance.

Last week's Cityspace column noted that much of the revitalization and economic development of Center City and communities like Northern Liberties, Mount Airy, Doylestown, West Chester and Ambler are actually historic preservation activities fueled by private interests combined with public-sector incentives. Easements are another example of a successful private sector preservation tool: a voluntary, two-party agreement in which the owner of a historic property agrees to never demolish and to maintain the historic character of the property in perpetuity. The easement donor gets a one-time tax deduction, the easement-holding organization, like the Preservation Alliance, fulfills its mission and the public is assured that the historic property will be preserved.

J. Randall Cotton is associate director of the Preservation Alliance for Greater Philadelphia. To learn more about preservation easements, check www.preservationalliance.com.



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