



Maintaining Municipal Conservation Easements In New Jersey

March 25, 2017





Easement Inventories?!

**Many municipalities find themselves with an
easement “inventory”**

**These easements were acquired
to protect the public good,
but only do so if they are monitored and
enforced.**

Facts and Resources



- Enabling Statute: NEW JERSEY CONSERVATION RESTRICTION AND HISTORIC PRESERVATION RESTRICTION ACT, Chapter 378, Public Laws of 1979.
- In New Jersey, a conservation easement is *permanent and runs with the land.*

Facts and Resources (Continued)

- Once a municipality accepts a conservation easement it has an *affirmative duty* to ensure that its terms and conditions are met.





Now's Your Chance!

Creating/Maintaining a Conservation Easement Inventory



Where are the Easements?



- Land Use Board?
- Zoning Office?
- Building Inspector?

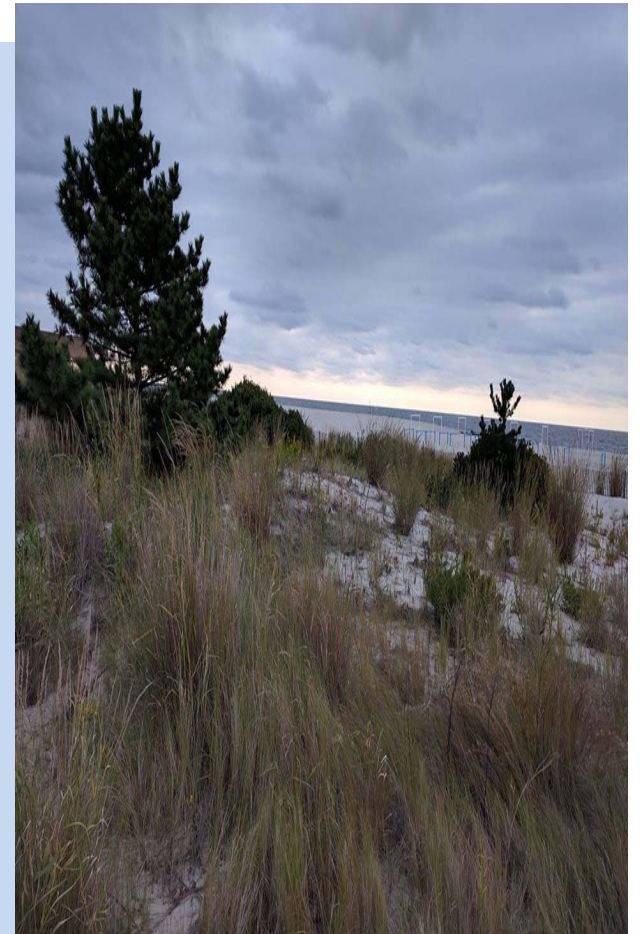




HELP IS AVAILABLE

No need to go it alone!

- ANJEC's comprehensive website
- Local Land Trusts -NJCF, FOHVOS, etc
- Local/Regional Watershed Associations
- National Land Trust Alliance
(<https://www.landtrustalliance.org/>)





5 Common Problems

- Easements are not located on maps
- Text of the easement agreement is not available.
- No “base-line data” to allow comparison over time.
- No program of routine monitoring and reporting.
- Owners not aware of the easement and its provisions.
- ***RESULT: NATURAL RESOURCE PROTECTIONS ARE LOST OVERTIME***

Remedies: Problem 1

Easements are not located on maps.

- By ordinance, require applicants to submit easement boundaries in a digital format
- Get data into your ERI
- Locate previous easements





Remedies: Problem 2

Text of the easement unavailable

- Easements should be recorded with the deed at county hall of records
- Municipality may have copy of agreement
- County may be able to provide agreement to you by email, send block and lot number
- Obtain, read and understand agreement





Be Proactive: Problem 2

Prepare Sample Easement Language for New Easements

- Meets minimum requirements of enabling statute
- Include the conservation values (the “why”) of the parcel being protected
- Specify right of entry for monitoring and also enforcement statements
- Require that easement gets recorded properly
- Obtain digital copies of all conservation easements and keep in a file organized by lot and block numbers.

Problem 3: No Base-Line Data

Data should be created when
easement is proposed

- Create data like an ERI on the parcel
- Archive digital files
- Make a field visit
- Make written observations and take and key them to a digital map.
- Write and archive a “Baseline Condition Report”.



Problem 4: Monitoring: WHY?



- By law, all easements must be periodically monitored
- Private property rights have been acquired by the municipality for the public good.
- On acquisition, the municipality accepted the duty to make sure that these “public good” is maintained.



Problem 4: Moving forward on Monitoring

Don't Inspect: MONITOR

- Landowner Notification Letter
- Create Conservation Partners
- Develop Positive Identity
- Get Approval for Visit
- Avoid Legal Action for Violations if at all Possible!



Problem 5: Owner Unaware of Responsibilities



Help -Don't Attack

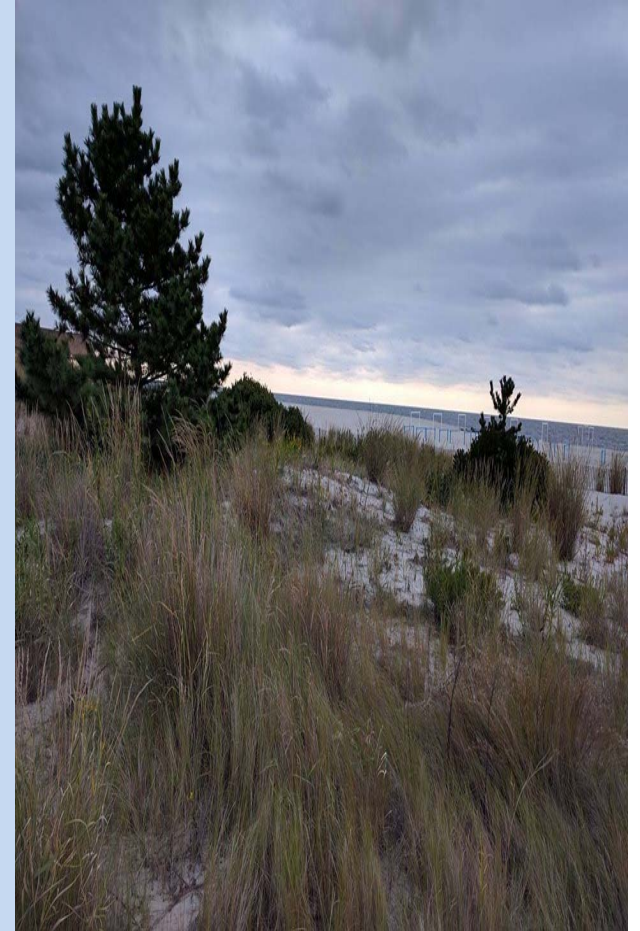
- You can help owner with education
- Usually happy to learn and participate
- Encourage conservation partnership
- Serious violations may need legal enforcement, **serious and expensive**
- Before monitoring, discuss enforcement internally



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Thank You!

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