**Instructions for Property Deed Preparation**

**When a Preserved Farm is: Sold whole or in parcels, Subdivided, Transferred**

**Whenever there is any change in ownership of land subject to an agricultural conservation easement, landowners are required by Commonwealth of Pennsylvania law to prepare new property deeds in accordance with the following instructions.**

This is necessary to ensure that all owners and prospective owners of land subject to agricultural conservation easements have a clear understanding of all the restrictions and provisions contained in the conservation easements that provide permanent legal protections to preserved farmland in Pennsylvania.

**New fee simple property deeds** **for** **land subject to an agricultural conservation easement must be prepared and recorded in the Lehigh County Recorder of Deeds Office**

**by landowners when:**

* **Transfer of Ownership** including the conveyance of individual tax parcels or separately deeded tracts, to any new ownership entity.
* **Subdivided** for the purpose of sale or transfer.
* **Transferred** to a trust, corporation, or any other ownership entity.

**New property deeds must be prepared and recorded as follows for all the land subject to the conservation easement:**

1. A legal recital referencing the location of the recorded conservation easement document. The reference should include the date of the conservation easement and the instrument number (or volume and page number) showing the location of the recorded conservation easement document in the Office of the Lehigh County Recorder of Deeds.

2. New prepared fee simple ownership deeds must contain all the conservation easement restrictions, terms and provisions **verbatim**. This is ~~best~~ accomplished by attaching a **complete** **copy** of the recorded conservation easement document to the new fee simple property deeds as an exhibit.

3. In **all cases** where only a portion of the land subject to the conservation easement is to be conveyed to a new owner or ownership entity, a new deed MUST also be drafted for the remaining parcel(s). Statements must be included in all the new fee simple property deeds, as to whether or not the parcels or tracts subject to the new property deeds contain the right to construct the one additional residential structure, as permitted by the conservation easement, **AND** how the 10% building coverage limit (starting with easements settled 5/18/1999, check your deed language) will be divided between the tracts .

Each new property deed shall contain one of the following statements depending on the circumstances of the sale or land transfer:

a) "AND THE SAID PREMISES is the parcel(s) or tract(s) on which **no** additional residential structure shall be permitted by the Deed of Agricultural Conservation Easement, and no more than \_\_\_\_\_\_\_\_\_ acres or \_\_\_\_\_\_% of the premises shall be covered by permanent buildings”.

b) "AND THE SAID PREMISES is the parcel(s) or tract(s) on which **one** additional residential structure is permitted by the Deed of Agricultural Conservation Easement, and no more than \_\_\_\_\_\_\_\_\_ acres or \_\_\_\_\_\_% of the premises shall be covered by permanent buildings”.

c) “AND THE SAID PREMISES is the parcel(s) or tract(s) on which the one additional residential structure **right has been used** as permitted by the Deed of Agricultural Conservation Easement and no more than \_\_\_\_\_\_\_\_\_ acres or \_\_\_\_\_\_% of the premises shall be covered by permanent buildings”.

**Deed Preparation Examples:**

**Example 1: Sold (Direct Sale/Parcel Conveyance)**

Alandowner with a 100 acre preserved farm intends to **sell** a 50 acre separately described tax parcel or tract(s) and retain the other 50 acres. In this example, the landowner must decide as to which tract the right to the new residence will be assigned. Two new deeds must be prepared, one for the portion to be sold and one for the portion to be retained. Both of the new deeds must contain a copy of the original Deed of Easement attached as Exhibit A and a statement as to whether or not the deeded property contains the right to the new residence and the percentage of building coverage limit, not to exceed the ORIGINAL easement’s 10% building coverage limit if appropriate.

**Example 2: Subdivide (Subdivision)**

A landowner obtains County Board and State Board approval to **subdivide** a 150 acre preserved farm into three 50 acre tracts and wants to sell each of the subdivided tracts. In this example, the landowner must prepare 3 new property deeds and assign the right to the new residence to only one of the 3 newly subdivided tracts. The deeds to the other two tracts must state that no additional residence can be constructed on these tracts. All 3 new property deeds must contain a copy of the original Deed of Easement attached as Exhibit A and shall also allocate the percentage of building coverage limit, not to exceed the ORIGINAL easement’s 10% building coverage limit if appropriate.

**Example 3: Transferring (To a Family Trust)**

A landowner is **transferring** ownership of their 100 acre preserved farm to a family trust. A new deed will need to be prepared to convey the farm to the family trust. The new deed must contain a copy of the original Deed of Easement attached as Exhibit A.

**Landowners and their attorneys are encouraged to have newly drafted property deeds reviewed by the Lehigh County Farmland Preservation Office prior to settlements to assure that the new deeds have been prepared correctly.**

**If a new deed has not been prepared and recorded correctly, the County Board and the State Farmland Preservation Board will require that a “corrective deed” be prepared and recorded. Landowners are responsible for all the costs associated with the preparation and recording of corrective deeds.**

**MANDATORY NOTIFICATIONS**

1. Written notification must be provided to the County and the State Bureau of Farmland Preservation within 30 days of the change of property ownership. Notifications must include the name and address of the new owner and the price per acre received by the seller.
2. Landowners should send copies of all new property deed(s) to the County Board or provide the County Board with the instrument numbers of any new recorded deeds. The County Board is required to forward all new property deeds to the State Bureau of Farmland Preservation within 20 days of learning there has been an ownership change

**Contact Diane-Matthews Gehringer at 610-336-5680 or by email at:**

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**if you or your attorney would like to have the farmland preservation office review your draft deeds or if you have any other questions about ownership transfer and deed preparation.**