Preservation Easement Program

Knox Heritage is passionate about preserving structures and places with historic or cultural significance. Established in 1974 as a non-profit 501(c)(3) educational corporation, Knox Heritage is chartered by the State of Tennessee, is governed by a board of directors, and is the leading preservation education and advocacy organization for the Middle East Tennessee region.

In 1998, Knox Heritage began laying the groundwork for a Preservation Easement Program to assist concerned property owners seeking effective ways to ensure their historic property would be protected from demolition, insensitive alterations, or neglect. Our desire is to help ensure that the character and integrity of such structures remain beyond the current generation of ownership. Preservation easements are a powerful tool that allows properties to remain on municipal tax rolls, does not incur maintenance costs for the easement holding organization, and may provide tax advantages to historic property owners.

In 1981, the State of Tennessee passed legislation allowing for the creation of “conservation easements” to protect land and structures. Knox Heritage operates a preservation easement program based on this legislation and aspires to follow best practices associated with easement programs.

Frequently Asked Questions

What is a preservation easement?

A preservation easement, also referred to as a “conservation easement” in Tennessee, is a legal agreement used to protect the architectural and/or landscape features of a historic property. The property owner (easement donor or “grantor”) and a qualified preservation organization such as Knox Heritage (easement holder or “grantee”) sign a legal document, recorded with local land records, that gives the easement holder certain rights and responsibilities associated with perpetual protection. The easement does not prevent future sales, leases, or estate planning, and the owner remains responsible for maintenance and taxes. Knox Heritage receives a preservation easement as a “donation”.

The Knox Heritage mission is primarily to protect historic structures which is why we use the term “preservation easement”. Generally, our easements protect exterior architectural features. Under special circumstances, a preservation easement may also consider interior features or designed landscape features. Large land holdings may be referred to another qualified easement holding organization that focuses specifically on land conservation. A preservation easement with Knox Heritage will work to protect a property from demolition or exterior alterations/additions not in keeping with its historical architectural character. The easement may also be written to ensure proper maintenance, to prohibit subdivision of the land, or to include other provisions tailored to the donor’s needs or circumstances of the property.

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1 The State of Tennessee, Conservation Easement Act of 1981; TCA § 64-9-301
**What makes Knox Heritage qualified to hold preservation easements?**

Knox Heritage meets Tennessee state law requirements for holding a preservation easement by being a tax exempt 501(c)(3) organization with an organizational mission to preserve the historical, architectural, archaeological, or cultural aspects of real property. Knox Heritage currently holds preservation easements on properties in Anderson, Knox, Loudon, and Washington Counties. We have experienced, professional staff knowledgeable about historic properties and qualified legal counsel at the local and national levels. Knox Heritage benefits from accepting preservation easement donations by being able to control development of a historic property without purchasing it.

**Why donate a preservation easement?**

A preservation easement can be the most effective way to control the future of a historic property and preserve a family legacy. National Register designations do not prevent demolition or structural alterations. Local historic districts may have limited capacity to enforce the level of protection desired and may be politically unstable. A preservation easement places the power to protect a structure with the current owner in partnership with Knox Heritage. It creates a legally enforceable agreement as part of the property deed that remains regardless of ownership changes. However, please note that even though a preservation easement is the most effective way to ensure protection it is not a 100% guarantee. It is possible, through a public process, for a community to use eminent domain to override an easement.

**What does a preservation easement allow?**

Preservation easements do not prevent the sale or lease of a historic property or hinder estate planning. Knox Heritage’s easements do not require a property owner to receive approval for completing basic maintenance of the property, such as painting or minor repairs. In most cases paint color is not restricted. Restrictions to certain spaces such as kitchens and bathrooms are not typical, therefore allowing a property owner to upgrade these spaces for modern living.

**What properties are eligible for the Knox Heritage Preservation Easement Program?**

Typically, a structure must be at least 50 years old at the time of application and possess a clear title. Knox Heritage reserves the right to refuse acceptance of a preservation easement for any reason. Please note that a property must be 50 years old to qualify for certain income, estate and property tax deductions. Easements on properties less than 50 years old may be considered.

**What is the cost of creating a preservation easement?**

There are no costs associated with initial consultations or for an initial visit to a property by Knox Heritage staff to discuss a potential preservation easement. There is a $100 non-refundable application fee required should you decide to proceed with the project and have Knox Heritage prepare a draft easement.

When Knox Heritage accepts an easement it also takes responsibility for the dedicated monitoring of the property in perpetuity, ensuring the terms of the agreement are observed. Please keep in mind that our organization will incur a variety of expenses when creating a new preservation easement. Because of this, Knox
Heritage includes a transfer fee provision in all easements. The transfer fee is equal to one percent (1.00%) of the sale price of the property, but it does not apply to inter-spousal transfers, transfers by gift, transfers between parents and children, transfers between grandparents and grandchildren, transfers between siblings, and contains special provisions for transfers between a corporation and any shareholders in the same corporation.

Knox Heritage does not cover any costs associated with an owner’s legal counsel, property surveys, or title search. The donor is responsible for paying all recording fees.

Are there financial benefits to donating a preservation easement?

Preservation easements donated to Knox Heritage, Inc. may qualify for income, estate and property tax deductions. The federal Tax Treatment Extension Act of 1980 codified authority for the donation of easements as tax-deductible gifts. If the donation meets the standards established in the Internal Revenue Code (IRC Sec. 170) and a value can be determined for the easement, the resulting deduction applies to federal income taxes. These allow a qualified donor to take a charitable contribution deduction for the appraised value of the legally binding preservation easement placed in perpetuity on an historic property. Donors wishing to seek a federal tax deduction for the donation of a preservation easement to protect a National Register of Historic Places-listed historic structure are advised to obtain professional advice on satisfying the appraisal requirements of the Internal Revenue Code. The donation of a preservation easement may also give rise to favorable property, estate, and other tax treatment. Each prospective donor should consult with qualified professional advisors to determine the tax and legal consequences of the donation of a preservation easement to Knox Heritage.

Income tax deductions

To qualify for the federal income tax deduction, the easement must be granted to a not-for-profit organization with 501(c)(3) tax status. The preservation easement must be granted solely for conservation purposes and in perpetuity. The property must be a certified historic structure; defined as any building, structure or land area listed in the National Register of Historic Places.

To claim a deduction, the value of the easement must be determined by a qualified professional appraiser. The easement’s value is customarily calculated as the difference between the fair market value of the property before and after easement donation. If the value of the donation exceeds the deductible limit for one year, the owner may carry it forward for up to five years. Property owners who wish to claim a tax deduction for an easement donation should retain the services of a tax accountant and/or a tax attorney and a real estate appraiser with experience in the examination of historic property. Knox Heritage can assist in identifying a qualified appraiser.

Easement donation and investment tax credits

The donation of an easement may be used in combination with the 20% investment tax credit available for the substantial rehabilitation of certified historic structures used in a trade or business. (Residences, or other personal property, do not currently qualify for the 20% investment tax credit.) In such cases, the donor should be aware that preliminary certification, significance or mere eligibility to the National Register does not constitute “Certification” as defined by the Internal Revenue Code governing easements, and thus does not guarantee the donation as a charitable contribution.
Estate Tax Reduction

Donation of an easement to a qualified public charitable institution such as Knox Heritage may also reduce federal estate taxes. If given during the owner’s lifetime, the easement’s value is not included when the value of the donor’s estate is determined. As a result, the estate taxes will be lower.

Property Tax Reduction

Donation of an easement may also reduce property taxes. The amount of any tax reduction due to an easement depends on the property’s location, use, and development potential. For example, the limitations created by an easement would be greater on a downtown commercial building than on a residence in an area where development pressures may not be as intense. Under Tennessee Law local tax assessors must recognize the devaluation of a property with an easement.

The Donation Process

Our determination regarding the acceptance of a preservation easement is made on an individual basis and must be approved by the Knox Heritage board of directors. Depending on the donor’s circumstances, the donation process can take several months to over a year to complete. The following steps describe the typical process that we use and are provided for general reference only:

1. An initial consultation will occur to discuss the property and level of protection desired. The initial consultation may include a site visit to the property and a request for additional information. There is no fee for the initial consultation or site visit.

2. If the initial consultation is successful, the prospective donor will be asked to submit a Preservation Easement Program Application. This application will be presented to the Knox Heritage Vintage Properties Committee for review.

3. Knox Heritage will prepare a draft preservation easement agreement in collaboration with the donor and his or her attorney.

4. The legal contract and accompanying donation is presented to Knox Heritage’s board of directors for approval and formal acceptance.

5. The grant of easement is recorded in the appropriate county in Tennessee.

6. Standard procedures may be modified on a case-by-case basis.

Administration of the Preservation Easement Program

One of the advantages to donating a preservation easement to Knox Heritage is that we maintain full-time, professional staff to negotiate and monitor our Preservation Easement Program. Administration of the Preservation Easement Program includes: (1) monitoring of easement properties, (2) approval of proposed projects as permissible within the restrictions of a specific easement, and (3) enforcement of easements.
Monitoring of Easement Properties

Each year, a designated Knox Heritage staff member will inspect the property based on the preservation easement requirements. Because assessing the building’s condition under varying weather conditions is preferable, the annual visit is undertaken at different times each year. If issues appear to exist, staff will contact the property owner to schedule a site visit at a mutually convenient time for further discussion. Monitoring reports and schedules are kept on file at the Knox Heritage office.

Project Approval

In addition to routine maintenance, owners may occasionally need to conduct larger renovation projects that may affect protected features. Proposed projects should first be discussed with our staff to determine whether protected features will be affected and/or if Knox Heritage’s approval will be needed. If so, the property owner must submit a Request for Project Approval Form. Once received, the Knox Heritage Vintage Properties Committee will review all proposals within thirty days (Knox Heritage will work as expeditiously as possible to review all requests). Work may begin once the property owner receives written approval for a project from Knox Heritage.

Enforcement

Knox Heritage considers a strong enforcement policy vital to maintaining the integrity of our program. We believe we have a responsibility to ensure the preservation of the properties we have promised to protect, and recognize the great trust that has been placed on our organization by easement donors.

Contact Information

For more information about Knox Heritage, Inc. and its Preservation Easement Program, call (865) 523-8008, email info@knoxheritage.org, or write to:

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