

Here Today, Gone Tomorrow!

Is Your Competition Venue Protected From Development?

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The excitement builds as you travel to the competition or show. You (or your equestrian) have been training diligently. Your steed is finely tuned and all "spiffed up." You are ready to go!

However, not all is as rosy as it may appear.

Will your competition grounds still be there? With the development rate of 250 acres per hour (USDA statistics), urban sprawl in the form of commercial and residential development is running rampant. The slow down in the housing market may be providing a slight reprieve, but when the economy returns to a robust state, as it always does, the rate of development will meet or exceed its most recent levels.

So, what should you think about with regard to the future of your competition venue? Consider first who owns the land where you train or compete.

Individually or Family Owned?

Is the landholder an individual? Is it a family-owned farm? What will be the disposition of the farm when the current owner is ready to move on or retire? Are there heirs who will inherit the farm? Will they continue the current array of equestrian activity? Are there multiple heirs and is there cohesiveness in their thinking about the future of equestrian activity on the property? Alternatively, perhaps the owner does not have children to whom the farm will pass. What will happen to the property? Moreover, if it is owned by an individual, do they expect to sell the farm and use the proceeds to fund their retirement?

Corporate Ownership

Does a for-profit company or corporation own the property? What is the structure of the corporate ownership: sole proprietor, partnership, family business, or shareholder owned corporation? For what reason does the company hold the land on which you ride? Is it a financial asset, a future building site, a source of raw materials, or a buffer to protect another piece of property or corporate facility?

It is important to understand the reason the corporation holds the land. Inquire about the corporation's plans for the land. It is also helpful to understand the legal and financial decision-making structure of the company. Once you have an understanding

of the company's plans for the land and its legal and decision-making structures, make plans to inquire about the possibility of equestrian friendly conservation protection for the property.

Not for Profit Organization or Association

We often assume our favorite competition venue or riding center owned and operated by a not-for-profit organization is protected from development. Consider this: often the most valuable asset these organizations may own is the land. If the property does not have a legal conservation easement or other form of land protection, it also may be the most vulnerable asset. The most likely scenario where a not-for-profit might sell its land is one in which the organization is having financial troubles. There is reason to be concerned when show income, memberships, boarding fees, donations and other revenue streams are not fully supporting the organization. Also, consider the organization vulnerable if one donor provides a substantial portion of the organization's funding year after year. In a financially-challenged organization, the potential exists for the sale of some or all of the land.

It is important to be involved with the organization that is a site of frequent competitions. Be active in its leadership, encourage others with experience in successful not-for-profit organizations to become involved. Make a charitable contribution to the organization and encourage others to do so. Organize or participate in a charity event benefiting the organization.

Public Land (Federal, State or Local)

Government agencies buy, sell and trade land on a regular basis. The mere fact that a parcel of land is government-owned and currently undeveloped is not a guarantee to its future as open space. Whether your show grounds are on a county or state park, or on a federal parcel, it is important to meet the land manager and develop a good relationship and open lines of communication. Create a situation where a partnership develops. Offer to assist and gather resources to help with projects on the land that benefit all users, not just equestrians. Consider forming a not-for-profit organization that can recruit volunteers, and secure donations of cash and other in-kind resources in support of the land, the facilities and programs offered there.

All of these common scenarios can have two possible outcomes for the equestrians connected to the land. When equestrians are forward thinking, community-oriented, and connected to the appropriate resources, positive outcomes are achieved.

Conservation Status of the Land

Once you have determined the landowner, it is time to gather information about the land's conservation status. Is the land protected from development by a conservation easement or other legal agreement? Is the landowner interested in maintaining equestrian uses on the property for generations to come? Do the landowners have any knowledge about land protection tools? Are they interested in maintaining this land for open space and equestrian use? Can an agreement be made to place an equestrian friendly easement or sale of the development rights?

Land Protection Tools

There are a number of land protection tools available to landowners. Individual circumstances will suggest a particular route or land conservation tool for each unique situation. (For additional reading, see *USPC News* issues winter and spring 2008).

A *conservation easement* with equestrian friendly language will conserve the land, protect equestrian uses, and provide the owner with federal tax benefits. State tax benefits are also possible depending on the community in which the property lies. In some areas, property tax reductions are possible.

Participation in a *Purchase of Development Rights* (PDR) program can provide cash for farm improvements, retirement funds, to retire debt, or fund operations and/or endowments for not-for-profit organizations.

It is critical for interested parties to become thoroughly familiar with the concepts and intricacies of conservation easements. The most comprehensive source of information on conservation easements is available through the Land Trust Alliance (LTA). LTA provides exceptionally valuable resources and helpful information on its web site www.lta.org. Particularly informative material can be found at the links entitled "Conserve Your Land," "Frequently Asked Questions," and "Land Trust Locator," which provides contact information for over 1600 local land trusts established throughout the United States.

Conservation easements that permit various equestrian activities desired by the individual landowner do not provide an enforceable right for others to participate in equestrian activity, but rather they emphasize permission to include such use on the land while adhering to the preservation of the specific conservation values described in the easement documents. In other words, conservation easements do not provide an enforceable right to have equestrian activity, but rather they permit such use as desired by the landowner.

ELCR defines an equestrian friendly conservation easement as one which:

- 1.) includes language which protects significant natural resources
- 2.) **has language that protects intended equestrian activity**
- 3.) is held by a qualified recipient organization
- 4.) provides potential tax benefits to the owner

It is important to note that a conservation easement in and of itself does not provide any guaranteed right or opportunity for equestrian use. When placing an easement on your land or working with a landowner, be sure to include equestrian friendly language. That language may be as simple as, "equestrian activities are permitted (or not prohibited)," or consider a provision that denotes that "temporary activities involving x number of people for up to x number of days is permitted (or not prohibited)" as a means to allow horse shows or rallies on the conserved property. It is essential to consult an experienced conservation attorney to advise you on the language needed to fit your particular situation and meet the IRS standard to uphold the conservation value of the easement.

ELCR offers a publication entitled the **Guide to Equestrian Friendly Conservation Easements** that will be available for sale in the summer of 2008. The revised guide provides twenty-two actual conservation easements with equestrian friendly language from ten different states as examples. The conservation easements cover a wide range of equestrian uses including:

- Keeping horses
- Building barns and fences
- Fox hunting
- Steeplechasing
- Horse Shows
- Trails

To purchase a copy of the guide, visit www.ELCR.org and click on "ELCR Publications."

You may also want to consult one or more of the following resources for more detailed information on legal land conservation tools as it may relate to your particular riding venue:

- An attorney versed in conservation law
- The Land Trust Alliance (www.LTA.org)
- Your local land trust
- A real estate attorney
- The Equestrian Land Conservation Resource (www.ELCR.org)

Other Tools & Resources

You might also consider taking advantage of tax and charitable gifting strategies such as trusts and bargain sales as part of your repertoire to place the land with an owner who shares your goal of protection including equestrian uses. Consider discussing your goals with a trust and estate attorney or an attorney with experience in trusts & estate issues, and charitable contributions.

The Bottom Line

Without the active involvement of equestrians, speaking up for their treasured places, these beautiful and vital competition venues may be lost forever. Consider the places you compete and, just for a moment, contemplate what it would be like without them. Then,

seek out the landowner at your favorite venue and begin a discussion about ways in which the location can be preserved for equestrian competitions for all future generations.

All information provided by the Equestrian Land Conservation Resource is intended for the sole purpose of educating equestrians and landowners in the identification of issues and solutions related to the advancement of land conservation to sustain horse-related activities. ELCR is not engaged in rendering legal, tax, accounting or other professional service. Please consult your professional advisor(s) when considering such action.

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