



MAINE REVENUE SERVICES PROPERTY TAX DIVISION PROPERTY TAX BULLETIN NO. 24

EFFECTS OF EASEMENTS ON JUST VALUE

REFERENCE: 36 M.R.S. § 701-A.
June 1, 2017; replaces January 14, 1983 original

1. The Law. Assessors must define just value based on presently possible land use alternatives for the particular parcel of land being valued. Assessors must also consider the effect of any enforceable restrictions on each property. Restrictions include, but are not limited to, zoning restrictions, subdivision restrictions, and contractual limitations. The just value of land is impacted by legally permissible uses.

2. In General. Certain easements, including conservation easements and right of way easements, contain enforceable restrictions relating to the use of the property. These restrictions must be reviewed to determine their specific effect on the valuation of the subject property.

3. What is an Easement? An easement is a right, privilege, or liberty which one has in land owned by another; it is a right to a limited use in another's land for some specific purpose. An easement is a non-possessory interest, since the owner of an easement does not possess the land itself, but has the right to certain benefits on the land of another.

4. Categories of Easements.
 - A. Affirmative - one which allows the holder of the easement to retain certain benefits on another's land. For example, the owner of landlocked Parcel A has the right to cross Parcel B, either on foot or by vehicle, to access Elm Street.
 - B. Negative - one which allows the holder of the easement to prevent a land owner from enjoying certain benefits on his or her own land. For example, the owner of Parcel A may not build any structure on A that interferes with the lake view from Parcel B.

5. Types of Easements.
 - A. Conservation easements serve as a permanent guide to the future use of privately owned land. A conservation easement is granted voluntarily by a landowner as part of a deed and recorded in the Registry of Deeds in the county where the property is located. After recording with the

Registry of Deeds, a conservation easement “runs with the title” of the land. An easement that runs with the title is attached to the land, rather than to the owner and is retained even if the land is sold. Conservation easements range from those that state that the land will remain forever wild to those that permit limited residential and commercial use of the land.

- B. Rights of way across another's land.
- C. Right to lay pipes underneath or on another's land.
- D. Right to place utility lines across another's land.
- E. Right to flood another's land.

6. Valuation of Easement-affected Properties.

There is no rule of thumb that establishes the just value of property subject to easements. Each easement must be carefully reviewed by itself to determine how each condition stated in the easement may affect the just value of the subject property or other properties. An easement which allows limited development rather than no development may still have an impact on the total value of the property. After reviewing the conditions of each easement, the assessor must decide whether the specific conditions increase, decrease, or have no effect on the just value of the subject property or other properties. The conditions of the easement may affect the just value of the subject property, adjacent properties, or properties located in the vicinity of the subject property.

7. Easement Consideration Factors.

- A. Conservation easements may specifically limit the highest and best use of the subject property by restricting the size or number of structures that may be constructed, as well as the specific use to which the land and structures can be put. This type of easement may decrease the just value of the subject property. Since an easement restricts or otherwise reduces the freedom of a landowner to enjoy full use of his or her property, it usually does not increase the just value of that property. A “forever wild” conservation easement prohibiting the building of any structures on land that is otherwise developable may substantially reduce the just value of a property.
- B. Easements created for the purpose of granting rights-of-way for roads, utilities, or pipelines can affect parcels differently. Availability of electrical power in many situations might increase the value of land formerly without any electrical power. Other easements which tend to separate an affected parcel might reduce the value of the separated parcel.

NOTE: This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. If further information is needed, contact the Property Tax Division of Maine Revenue Services.

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