

# Frequently Asked Questions: Easement Program General

## **What is an Easement?**

Answer: A historic preservation easement is a type of conservation easement designed to protect a significant historic, archaeological, or cultural resource. Easements are contractual agreements between a property owner and a holding organization. Generally, the owners of the easement property agree to relinquish partial development rights, to maintain the property, to provide limited public access, and to obtain prior approval for any changes or alterations.

## **What are the benefits for having a Deed of Easement?**

Answer: The Maryland Historical Trust promises to protect the property by ensuring compliance with the terms of the Easement thus preserving the property in perpetuity. MHT is also available to advise owners on the correct and best methods of preserving practices.

## **How long is the Deed of Easement held by MHT?**

Answer: Easements that qualify for the federal tax deduction are required by the IRS to be perpetual as are easements extracted by state or federal property transfer. Conveyance of an easement required as the result of financial support from the state or federal government will be for a fixed term of years as shown below.

Type of financial support	Required easement term
State legislative bond bill	One year of easement term for every \$5,000, or portion thereof, in funding; minimum term 15 years
MHT, MHAA, and AAHPP grants	One year of easement term for every \$5,000, or portion thereof, in funding; minimum term 15 years
MHT and MHAA loans	Term ends five years after repayment of loan; minimum term 15 years
Federal grants	Per federal funding program requirements

## **Where can I find a list of all of the MHT held Easement properties for the State of Maryland?**

Answer: If you want to find out about a property specifically please call the Easement Administrator to inquire about a property's easement status. You can also check [Current Easements](#) document on MHT's website.

\*\*NOTE THAT DOCUMENT IS ONLY UPDATED ONCE A YEAR AND MHT ACCEPTS AND RECORDS NEW EASEMENTS MONTHLY.\*\*

## **Where can I find a copy of my Easement?**

Answer: Contact the Easement Administrator to request a copy of your Deed of Easement. All easements are recorded at the county land records office and become part of the property's chain of title. Copies of easements and other land records are available through the [Maryland State Archives](#), in cooperation with the Maryland judiciary and the 24 elected Court Clerks of Maryland. Please note that Users must first apply for a username and password to use this website.

### **What are the restrictions of an Easement?**

Answer: The property owner maintains full possession of the property; he or she has assigned specific development rights to MHT as a “non-possessory” owner. While all Easement restrictions are property specific, they may include restrictions on new construction, alterations and excavation, required maintenance, and the right to inspect the property to ensure that the owner is in compliance with the conditions of the easement.

### **What is the public access requirement in my Deed of Easement?**

Answer: In order to meet the requirements of MHT’s preservation easement program or claim the Federal income tax deduction, the certified historic structure or historically important land area must be accessible to the public. The degree of access is tailored according to the historic resource under protection. MHT requires the completion of a public access form each year to confirm that the easement property has met the necessary public access requirements defined in the easement.

### **What does the Archeological clause in my Deed of Easement mean?**

Answer: The archeological clause in many Deed of Easements state: no grading, excavation, plowing over 12 inches in depth, sub soiling, drainage improvement, or other undertaking which would materially disturb the surface of subsurface of the ground without the prior approval of the Director. Therefore, Applicants should not undertake **any** ground penetration (that includes plantings and landscaping) without prior review by the Committee and approval by the Director.

### **Why does MHT need to inspect my property?**

Answer: Every Deed of Easement includes a provision granting MHT the right to enter the property upon reasonable notice to determine whether the owner is in compliance with the terms of the Easement.

### **How often will my property be inspected?**

Answer: We try to inspect properties every 3-5 years. Frequency of visits, however, may fluctuate with staffing levels.

### **Who will conduct the inspection?**

Answer: The inspections will be carried out by MHT staff. In fact, we have an Easement Inspector whose sole responsibility is to monitor our Easement properties.

### **How long will the inspection take?**

Answer: The length of the inspection varies and depends on the extent of coverage, the size of the property, and the number of buildings.

### **Will the inspector need access to private quarters?**

Answer: The inspector will only need access to spaces that are protected by the Easement. If your Easement states that the interior of the building is protected, MHT staff has a right to enter and inspect the interior of the property. For this reason, the owner must be present when an interior inspection is conducted.

**I have made changes to my property without MHT approval. What will happen when my property is inspected?**

Answer: If unauthorized alterations are identified during an inspection, the Easement Inspector will request additional information including when the work was completed, why it was necessary, and why the MHT was not informed. The Easement Committee will then review the alterations to determine if they are appropriate.

**I am considering making changes to my property. Can the Easement Inspector tell me what I can or can't do to the property?**

Answer: No- only the Easement Committee is authorized to make recommendations on work that is approvable and only the Director of the MHT has authority to grant approval.

**I am considering purchasing a property protected by an MHT Easement. Can I schedule an inspection before we settle?**

Answer: We encourage all potential buyers to contact us to verify that the property is in compliance with the terms of the easement prior to sale. If an inspection is warranted, you may contact the Easement Inspector at (410) 697-9580 to make arrangements.

**I'm selling my easement property; do I need to contact you?**

Answer: Yes, please! Property owners are advised to contact MHT, prior to the transfer of an easement property, to complete an inspection, confirm that the property is in good standing, and provide current contact information. This helps both sellers to ensure their property is in compliance as well as lets buyers know of the Deed of Easement.

**My property is listed on the Maryland Inventory of Historic Places; do I have to submit an Application to the Easement Committee?**

Answer: While an Easement property is likely on the Maryland Inventory of Historic Places that does not necessarily mean that a property on the Maryland Inventory of Historic Places is an Easement property. Please contact the Easement Administrator or the Inventory Registrar if you have any questions.

**My local historic preservation commission has already approved my rehabilitation project and I'm anxious to get started. Do I also need MHT's approval to begin the proposed work?**

Answer: Absolutely. MHT must review and approval ALL Changes/Alterations to an Easement property. MHT is the only government agency responsible for administering the Historic Easement Program and is solely responsible for certifying properties are in compliance and that planned changes/alterations meet the Secretary of the Interior's Standards for Rehabilitation.

\*\* FURTHERMORE, IT IS STRONGLY SUGGESTED THAT ALL PROPOSED WORK BE REVIEWED AND APPROVED BY MHT PRIOR TO SUBMITTING TO OTHER DEPARTMENTS OR ORGANIZATION, INCLUDING YOUR LOCAL HISTORIC PRESERVATION/DISTRICT COMMISSIONS. \*\*

**How is the review of my application impacted by other relevant or applicable laws?**

Answer: The property owner(s) [or Grantee] and /or its agents are responsible for complying with all Federal, state, and local laws applicable to the project. This responsibility may include, but is not limited

to, compliance with local zoning, building, and life safety codes, reviews by local historic preservation commissions, and federal and state licensing, permitting, and environmental requirements.

**My project is also receiving State or Federal funding, what do I need to do?**

Answer: Easement properties receiving capital grants, bond bills, loans, State or Federal Rehabilitation Tax Credits, or other funding should indicate the source on the Application so that, if necessary, we may coordinate or notify the appropriate organization. Please keep in mind that most projects will require a separate review and approval process.

**Are there any financial incentives as an Easement property?**

Answer: Owners of easement properties may qualify for a variety of local, State, and/or Federal financial incentives depending on their tax exempt status and the nature of their project. The Maryland Historical Trust offers grants, loans, and tax credits to owners of historic properties. There are also other funding sources available outside of MHT.