



VIRGINIA DEPARTMENT OF HISTORIC RESOURCES

Historic Preservation Easement Program

POLICY #9

Easement Requirements

As an easement holding organization, the Virginia Board of Historic Resources (“Board”) and the Virginia Department of Historic Resources (“DHR”) will work with property owners and their legal counsel to develop easement language that serves to protect the property subject to the easement. DHR will continue to update the standard template language to be included in all easements as necessary to reflect changes in federal and state law and historic preservation procedures and practices. It is the policy of the Board and DHR to develop language for each easement that will be both flexible and strong enough to remain in force in perpetuity.

In addition to stipulations already included in the templates used by DHR, easements accepted after December 31, 2008 will include the following stipulations, as appropriate.

- The property subject to the easement must be adequately insured against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance.
- Each easement will include a stipulation regarding extinguishment.
- Each easement will protect the entire exterior and specific interior architectural features (as appropriate, and depending on the historic integrity of interior features) for the primary built historic resources on the property. For battlefield properties that are not listed on the VLR, the appropriate level of protection for existing architectural and built resources (including dwellings, outbuildings, and structures) will be evaluated on a case by case basis.
- Consistent with the Internal Revenue Code requirements enacted with the Pension Protection Act of 2006, easements will stipulate that the height of easement properties may not be altered.
- Any restrictions on a property that are already in force (e.g. zoning, review by Architectural Review Board) will be identified in the easement document

- DHR will require that easements clearly state that DHR staff will be granted access to properties under easement, upon reasonable notification, in order to conduct an inspection of the features of the property that are protected by the easement.
- Easements will require that an owner of an easement property must notify DHR when the property has transferred ownership.
- Easements will reference the *Secretary of the Interior's Standards for the Treatment of Historic Properties and the Guidelines for the Treatment of Cultural Landscapes* (36 C.F.R. 68), as these may be amended from time to time ("Secretary's Standards"), as the benchmark by which alterations to a property will be measured against.
- In order to derive the maximum public benefit from properties under easement, it is the policy of the Board and DHR to provide recommendations for public access in the easement document.
- In cases where an easement is to be co-held by DHR and other organizations or in cases where the property is subject to other levels of review (e.g. Architectural Review Board), every attempt will be made to sub-ordinate and clearly define responsibilities in the easement.

*[Revised policy adopted by the Virginia Board of Historic Resources on December 18, 2008;
Revised March 17, 2011]*