



STEPS TO CONVEY AN EASEMENT TO THE BOARD OF HISTORIC RESOURCES

The following outline describes the basic steps to convey an easement to the Virginia Board of Historic Resources and is intended to be a summary overview. Please note that the timeline for donation of an easement may vary, but plan for a minimum of 18 months depending on the complexity of the project and applicable grant funding sources.

- 1. INFORMATION GATHERING:** Owner contacts DHR Easement Program staff to request information and discuss the Easement Program and donation process. Staff conducts research to confirm the historic significance of the property and its eligibility for the Easement Program as well as identify associated conservation values. Staff provides owner an Easement Information Packet, the [Easement Program Policies](#), and [Easement Application Form](#). ***To determine whether an easement is a good fit for you and your property, DHR recommends that owners consult with an attorney who has experience with conservation easements.***
- 2. PRELIMINARY SITE VISIT (OPTIONAL):** At staff discretion, a preliminary site visit may be made to discuss the program with a potential donor, review the standard easement template, and tour the property.
- 3. EASEMENT APPLICATION FORM:** Owner or designated representative submits completed, signed, and dated [Easement Application Form](#) and [\\$500.00 Application Fee](#) at least **thirty (30) calendar days** prior to Easement Acceptance Committee meeting. Staff processes application and reviews all title documents and deeds, plat of boundary survey, leases, licenses or other rights held by third parties to access or use the property being offered for easement, copies of all liens and encumbrances, grant agreements and any associated review required pursuant to Section 106 of the National Historic Preservation Act, environmental site assessment (if applicable), and state and local planning documents to identify supporting policies and potential conflicts.
- 4. EASEMENT ACCEPTANCE COMMITTEE REVIEW:** Upon receipt of a completed Easement Application Form and application fee, staff will notify the owner and the easement offer will be placed on the next meeting agenda of the Easement Acceptance Committee (“EAC” or “Committee”). The Committee will review easement applications in a two-step process. A complete easement application will be presented to the EAC at the first meeting, during which the EAC will consider whether the property meets the threshold requirements for participation in the easement program as well as the historic significance and integrity of the property and its character defining architectural, archeological features and/or setting and landscape features. The Committee will also determine what additional information is required to fully evaluate the proposed easement; and what issues must be addressed to make a formal recommendation to the Board concerning acceptance of the easement. Following this first review by the EAC, Easement Program staff will advise the applicant of any determination made by the EAC.

The EAC may take one or more of the following actions:

- 1. Recommend approval of the easement offer as proposed;**
- 2. Recommend that any approval be conditioned on specific requirements or actions;**
- 3. Not recommend acceptance of the easement offer as proposed; or**
- 4. Defer making a recommendation where insufficient information is provided or where conditions affecting the property require prior resolution.**

Pending receipt of additional information and resolution of all identified issues, the EAC will again consider the proposed easement at a second meeting, at which the EAC may make a formal recommendation concerning acceptance to the Board. Staff will again inform the applicant/owner of the Committee’s recommendation. Written correspondence to owner includes summary of proposed easement provisions and any conditions for approval recommended by the EAC. DHR’s goal is to resolve issues early in the easement application process and present a final easement proposal to the Board with no conditions attached to approval. *If a comprehensive application is received and the project presents no potential issues to be resolved, it is possible that the EAC may make a recommendation during the first meeting.*

5. **VIRGINIA BOARD OF HISTORIC RESOURCES REVIEW:** Per evaluation and recommendation from the EAC, the easement offer is added to the agenda for the next quarterly Board meeting. Easement Program staff will notify the property owner of the meeting date and location and will provide information regarding the agenda. At the public Board meeting, Easement Program staff will present the offer, describe the property's historic significance and the formal documentation of that significance, highlight any special features of the property, specify any

Per [Easement Program Policy #2: Criteria for Acceptance of Easements](#) standard approvals issued by the Board of Historic Resources are valid for three calendar years from the date of the Board's approval. Each approval of an easement offer by the Board will contain this sunset clause, or timeframe within which the easement must be recorded, or the Board's approval reauthorized. Reconsideration of the offer will be subject to a \$1,500 fee.

reserved rights, and address the EAC's recommendations, including any recommended conditions of approval. The Board may take the following actions, including, but not limited to: (i) approve the easement offer as proposed; (ii) approve the easement offer with conditions requiring specific requirements or actions; (iii) decline acceptance of the easement offer as proposed; or (iii) defer making a recommendation where insufficient information has been provided by the property owner or his/her designated agent, or where conditions affecting the property require prior resolution. Staff informs the owner of the Board's decision. Written correspondence sent to the owner documents approval by the Board of an easement offer,

including any conditions for the approval, as well as a sunset clause, or a timeframe within which the easement must be recorded.

6. **DRAFTING EASEMENT DEED:** After Board approval, the draft deed of easement is prepared by Easement Program staff based on DHR's current standard template, proposed reserved rights, grant funding requirements (if applicable), and any conditions for approval imposed by the Board. Once the document is reviewed internally, the draft easement is given to the owner(s) and his/her attorney. The owner(s) provides DHR with comments and modifications on the draft deed of easement. After resolving any questions with the owner(s), the revised draft deed of easement and title work are reviewed by the grant funding organization (if applicable) and DHR's counsel at the Office of the Attorney General.
7. **BASELINE DOCUMENTATION REPORT & SITE VISIT:** The Baseline Documentation Report describes the characteristics and conditions of the property at the time of easement recordation as well as the features and conservation values that are the subject of the easement. Staff will schedule a site visit to the property within six months of easement recordation to obtain baseline documentation. Documentation will incorporate comprehensive photographic coverage of property, including historically significant interiors. The draft report is sent to the owner for review and the owner provides DHR with comments and modifications. Staff then prepares final report for signature. As Grantor, the owner(s) must sign the acknowledgment page indicating agreement that the baseline documentation accurately depicts the appearance and condition of the property prior to or at the time of recordation of the easement.
8. **EASEMENT RECORDATION:** Once the final easement draft is approved by the owner, owner's attorney, grant funding organization (if applicable), Office of the Attorney General, and Easement Program staff, the final draft is signed and notarized in counterpart by the owner(s) and DHR on behalf of the Board. The owner(s) obtains subordination for any mortgages, leases, or other liens. If applicable, an Appraisal Summary is provided to DHR 30 days in advance in recordation and completed IRS Form 8283 provided to DHR for review (see [Easement Program Policy #11: Appraisals](#)). The executed deed of easement is sent by owner's attorney or by DHR to the Circuit Court Clerk's office for recordation. DHR archives the original recorded easement according to recordkeeping policies established by the Board and DHR.