

An aerial photograph of a farmstead in New York. The central focus is a cluster of red barns and a white silo. To the left, there are several houses and a paved road. To the right, there are large green fields, some of which appear to be corn. In the background, there is a parking lot with several cars and a road. The overall scene is a mix of agricultural and residential buildings surrounded by lush greenery.

# Farmland Protection in New York

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# American Farmland Trust

- National nonprofit founded in 1980
- Funded by private donations, grants and consulting contracts
- Mission: To stop the loss of productive farmland and promote sound stewardship of the land



# Road Map

- Conservation Easements
- Purchase of Development Right (PDR) programs
- Benefits and Drawbacks to PDR



# Conservation Easements

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- Enabled by Article 49 Section 3 of the NYS Environmental Conservation Law (ECL)
- Legal agreement between a landowner and a land trust or government agency that permanently limits uses of the land in order to protect its conservation values.



# Conservation Easements

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- Permanently extinguish right to use property in ways incompatible with conservation purposes
- Easement recipient monitors and enforces
- Property remains in private ownership and on tax roll



# Conservation Easements

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- Ways to Convey Permanent Conservation Easements
  - Purchase (PDR)
  - Donation
  - Combination (“Bargain Sale”)

# Agricultural Conservation Easements

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- **The Purpose Statement**
  - ✓ Protect Agricultural Soils
  - ✓ Protect Agricultural Viability
  - ✓ Protect Agricultural Productivity
  - ✓ Protect Other Conservation Values:
    - ✓ Wildlife Habitat, Water Quality
    - ✓ Scenic Landscapes, Historic Values

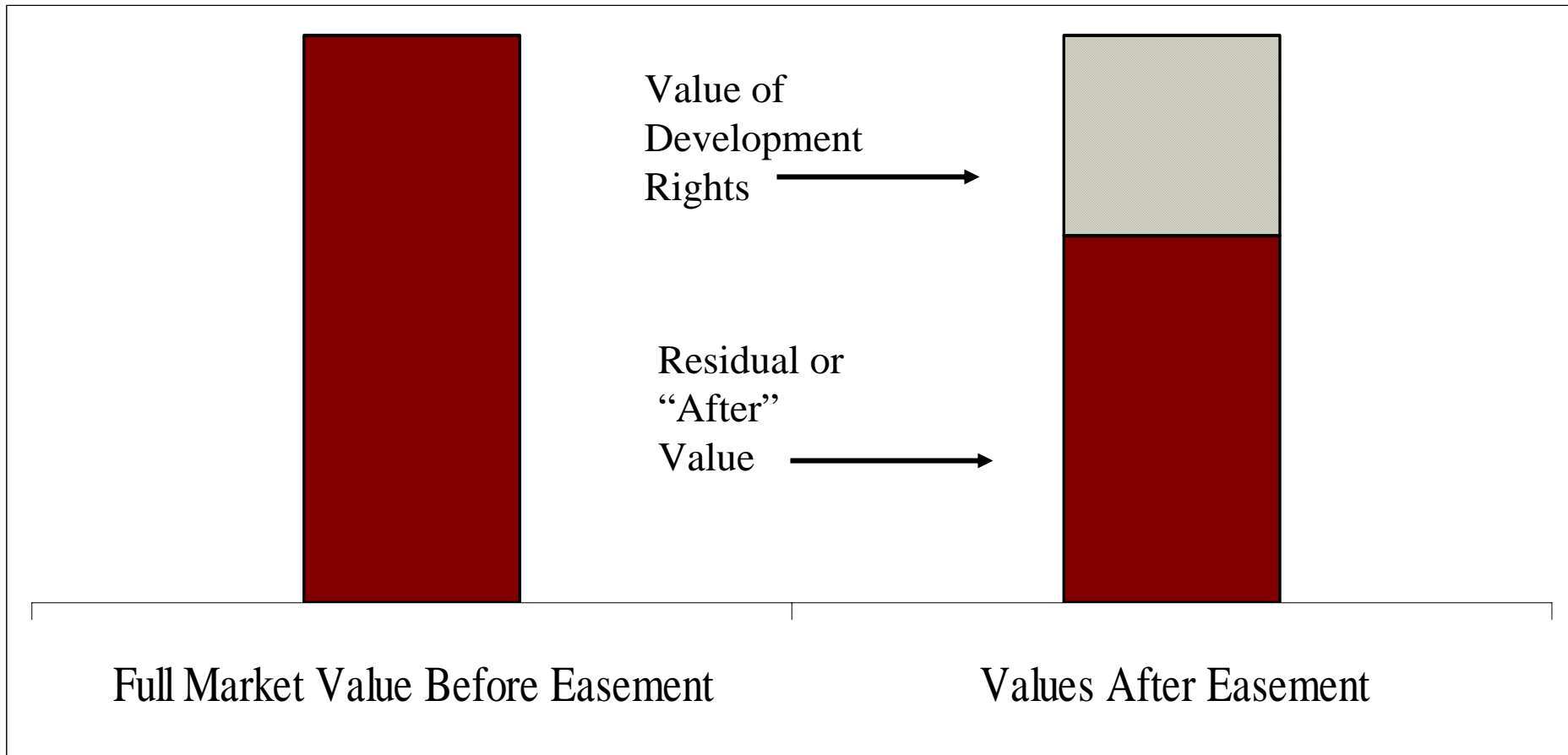
# Agricultural Conservation Easements

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- Limit future non-farm use of the land
- Encourage the business of farming
- Permit construction of new farm buildings and employee housing
- Do not require public access
- Landowner retains private ownership of the farm subject to the easement restrictions

# Easement Valuation

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# For example

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## 150 Acre Dairy Farm

|                            | <u>Per Acre</u> | <u>Total</u>      |
|----------------------------|-----------------|-------------------|
| Full Market Value:         | \$3,500         | \$ 525,000        |
| - <u>Ag (After) Value:</u> | <u>\$1,000</u>  | <u>\$ 150,000</u> |
| Development                |                 |                   |
| Rights Value:              | \$2,500*        | \$ 375,000        |

**\*Will Differ by Region and Parcel\***

# PDR Programs

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- Federal
  - Managed by USDA NRCS
  - States, Counties, Towns or Land Trusts Can Apply
  - Pays for 50% of Easement Costs
  - \$600 Million Authorized in 2002 Farm Bill
  - 2007 Farm Bill in negotiations now

# PDR Programs

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- New York State
  - Administered by Dept. of Ag & Markets
  - Towns & Counties Can Apply
  - Annual Request for Proposals (RFP) Process
    - 2007 RFP
      - \$65 Million in Requests
      - \$28 Million Available
  - Pays for 75% of Costs

# PDR Programs

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- County Programs
  - Administered at the County level
  - Format varies by County
  - Example: Saratoga County
    - Farmland and Open Space Protection Program
    - Annual RFP process
    - Funding allocated to the program at the County level
    - Can provide portion or all of 25% local match for state program

# PDR Programs

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- Municipal Programs
  - Administered by municipalities
  - Format varies
  - Example: Warwick, NY
    - Comprehensive Plan strongly recommended PDR
    - Bonded \$9.5 million in 2000 for open space and farmland protection program
    - Community Preservation Act passed in 2006 will also help fund program
  - Few communities currently have their own programs

# Drawbacks of PDR

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- Projects are expensive/local match isn't always available
- Demand for the program is typically higher than funding available
- Projects are time consuming and lengthy to complete
- Do not ensure that the land will continue to be farmed in perpetuity
- Use of property is limited for the future
- Proceeds from a PDR project are subject to capital gains taxes

# Benefits of PDR

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- Protects land from development
- Voluntary
- Liquidates assets held in the land
- Maintains private ownership
- May have tax benefits for landowner
- Can help facilitate intergenerational transfers
- Easements are somewhat flexible documents that can be tailored to fit your needs

# Resources for Further Information

- American Farmland Trust  
[www.farmland.org](http://www.farmland.org)
- Department of Agriculture and Markets  
[www.agmkt.state.ny.us](http://www.agmkt.state.ny.us)
- USDA Farm and Ranchland Protection Program  
[www.nrcs.usda.gov/programs/frpp](http://www.nrcs.usda.gov/programs/frpp)