

CONSERVATION EASEMENTS



ARKANSAS HISTORIC PRESERVATION PROGRAM

An agency of the Department of Arkansas Heritage

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The properties that illustrate Arkansas's heritage are diverse.

They range from archeological sites, dogtrot mountain homes and grand mansions, to battlefields, government buildings, and railroad depots. Each reflects an aspect of a shared experience, and each should be preserved to interpret that shared experience for future generations.

The Arkansas Historic Preservation Program's easement program offers property owners flexibility in devising ways to ensure that

the state's irreplaceable historic resources will be here for future generations. The gift of a preservation easement to AHPP on behalf of the State of Arkansas is a significant contribution to all Arkansans. While the property remains in private hands, its very existence serves the public interest.

The following question and answer format is intended to serve as a general information piece.

If you choose to pursue easement donation, detailed information and further instructions specific to your historic property will be made available to you.

Q What is an Easement?

An easement is a voluntary transfer of some of the rights inherent in property ownership. The historic preservation easement is a right or limitation, set forth in a legal instrument or deed, which allows the donor to retain ownership and possession of a historic landmark while granting a government agency or qualified non-profit organization the authority to protect the historical, cultural, architectural, or archeological characteristics of the property.

The agreement may be called a "preservation," "conservation," "scenic," "interior," "open space," "exterior," or "façade" easement. The name has less to do with the way the agreement works than with the kind of resources it protects.

In each instance, the "easement," as it is legally termed, must

contain binding and enforceable covenants that run with the land and structure. These covenants obligate the owner to refrain from actions that are incompatible with the preservation of the landmark.

Q How does an easement work?

Typically, the easement involves the surrender of some right that, as the owner, you would otherwise have, such as the right to modify the exterior or to use adjacent space in a way that might compromise the historic character and integrity of the site.

In granting an easement, you will still keep your essential interest in the property, except for the rights given away in the easement document. The easement, granted in perpetuity, will always run with the deed to the property so that its historic character is protected forever.

The property will be protected regardless of who the future owners may be. Should the property be sold, the easement continues to bind the new owner, and the title passes with the easement in force. Although easement agreements are final, changes to the property may be allowed if they are consistent with the historic character of the property and follow the U. S. Secretary of the Interior's Standards for Rehabilitation. *(The summary standards are found at the back of this brochure.)* All changes are subject to written approval by the Arkansas Historic Preservation Program if the easement is donated to the AHPP.

Easements clearly define the features to be protected – generally including adjacent open space – and prohibit incompatible



Arkansas County Courthouse, Stuttgart



4206 Woodlawn, Little Rock



Bradford City Hall, White County



4215 Lee Avenue, Little Rock



Bragg Family Townhouse, Little Rock

The Arkansas Historic Preservation Program holds conservation easements on all the properties shown in this publication.



*Coca-Cola Building,
Morrilton*

uses, such as commercial development, subdivision, or other actions that are determined to be inappropriate.

Properties and their special characteristics worthy of protection are described in detail in the deed of easement and

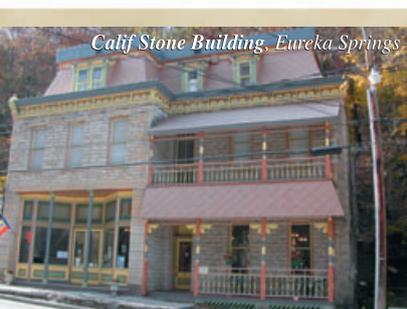
documented with photographs. As a legal document, the easement is filed in the local land records along with all other legal documents relating to the property.

Q What properties are eligible?

The property must be a certified historic structure. A certified historic structure is one that is individually listed on the National Register of Historic Places OR a structure located within a National Register historic district and certified by the National Park Service as contributing to that district.

The AHPP will address the following criteria in determining whether or not to accept an easement donation:

- The property must be listed on the National Register of Historic Places.
- If a property on which an easement is being donated is listed as a contributing resource in a National Register Historic District, a Historic Preservation Certification Application Part 1 – Significance must first be approved by the National Park Service.
- Easements will not be accepted on properties having alterations inconsistent with the historic fabric, architectural style, or nature of the property, including but not limited to artificial siding, inappropriate replacement windows, or inappropriate additions.
- The property on which an easement is being donated must retain significant integrity as determined by the National Register criteria and the Easement Review Committee.



Calif Stone Building, Eureka Springs

- The property on which an easement is being donated must be significant according to National Register criteria and the Easement Review Committee.

- The Easement Review Committee may consider the physical condition and potential threats to the property in its determination of acceptance.

The AHPP currently holds easements on more than 300 properties across the state.

Q Why give an easement?

A preservation easement is given to protect and preserve the architectural, historic, or archeological value of a landmark and its surroundings. It assures the grantor of the easement that the property will not be inappropriately altered or neglected following his or her tenure.

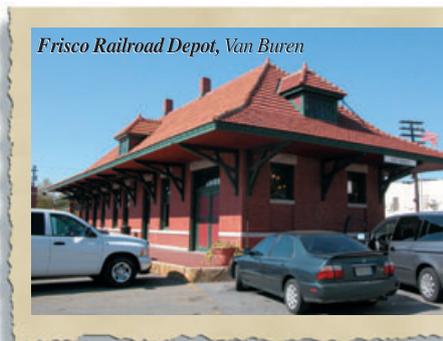


*E.O. Manees House,
North Little Rock*

Easements are an economical way for the state to ensure protection of its historic resources. Government agencies or conservation organizations normally cannot afford to pursue, maintain, secure, and supervise all places worthy of preservation. With preservation easements, important sites can be maintained largely or totally without cost to the taxpayer. At the same time, the public benefits from their historic and educational value. As with the protection of endangered species, an important part of Arkansas's heritage is assured of survival.

Q How long does an easement last?

The Arkansas Historic Preservation Program, on behalf of the State of Arkansas, accepts only those easements that are granted in perpetuity. The easement, granted in perpetuity, will always run with the deed to the property so that its historic character is ensured forever. Once a historic resource is protected



Frisco Railroad Depot, Van Buren

by a preservation easement, its survival for future generations is guaranteed.

Q What conditions are included in the easement?

A Each easement accepted by the Arkansas Historic Preservation Program for the State of Arkansas is negotiated on an individual basis with the property owner.



Garrott House, Batesville

The staff of the Arkansas Historic Preservation Program will help identify and discuss with you the historic elements of your property, as well as your goals, plans, and needs. The terms of the easement are drafted to protect each of these elements as fully as possible.

In the case of a historic building or structure, the AHPP requires some control over the architectural elements of the

exterior. The owner must obtain written approval from the AHPP before beginning any alterations or additions. As stated above, the restrictions on the land may prohibit or limit subdivision and require that the landscape character of the property be maintained.

In the case of an archeological site or battlefield, the easement stipulates that the owner notify AHPP before undertaking any new disturbance of the soil on the easement property. In this way, a staff archeologist from the AHPP can assist in avoiding damage to the site. The easement also frequently requires the owner to take affirmative steps to ensure good farming practices and to protect the site from damage from vandalism and natural causes.

Q What are the advantages and benefits of donating an easement?

A Most donors enter such an agreement to ensure that their property will be permanently protected from willful destruction, demolition, dismantling, or other inappropriate treatment. In addition,

federal tax benefits may be available for donations that qualify under the Internal Revenue Code.

Because an easement donated to AHPP is perpetual, the donor and all future owners of the property are bound to adhere to its conditions. This can be a welcome guarantee for those who have invested considerable time, money, and love in a historic property. Donation of an easement can in some cases also provide the following advantages:

- The value of the easement, as determined by a qualified appraisal, can in some cases be claimed as a charitable donation from taxable income on federal income taxes. It is the donor's duty to ensure that the donation is made in accordance with the Internal Revenue Code in order to receive this deduction.
- By accepting an easement, the AHPP has made a commitment to the preservation of the property. The technical advice and assistance of the AHPP staff will be made available to you. The staff can provide literature on preservation techniques, consultants, contractors, and other professionals experienced in working with historic buildings and can answer questions on an individual basis. The staff of the AHPP or its contractor is obligated to inspect easement properties periodically. Such inspections are good opportunities to provide technical assistance to owners. Staff members are happy to meet with you on-site to discuss your concerns and give advice on the most appropriate treatment for the property.



Judsonia Bridge, White County



Jackson County Courthouse, Newport



Plantation House, Lakeport

How do I donate a preservation easement?

All preservation easement donors must follow the following procedures:

1. Potential donor contacts the AHPP Conservation Easement Coordinator at (501) 324-9880.



Morrilton Library, Morrilton

2. The AHPP mails the potential donor a brochure explaining the easement program.

3. If still interested, the potential donor calls the AHPP to begin the donation process. All contact regarding easements must be made specifically with the AHPP's easement program coordinator, not with other staff members.

4. The AHPP then mails a packet with a letter explaining the AHPP's requirements for application and granting of an easement, an overview of the donation process, explanation of the grantor's obligation to pay any fees – including legal fees, if necessary – an application form, a copy of the AHPP's easement program regulations, the form for the proposed easement, and a copy of the Secretary of the Interior's Standards for Rehabilitation.

5. The potential donor seeks advice/counsel from an attorney and/or financial advisor.

6. The potential donor calls the AHPP to schedule a site visit at the proposed easement property. A site visit is scheduled with at least one representative from the AHPP's easement program area.

7. The site visit is conducted and the application and attachments are discussed.

8. The potential donor applies to donate an easement to the AHPP. If the property is individually listed on the National Register, the application must include: application form; current photos of the interior and exterior of the property; title insurance



Merchants and Planters Bank, Clarendon

commitment; an appraisal of the easement; subordination of mortgage; the completed easement document; and an acknowledgment by the grantor that the information submitted is true and correct to the best of his or her knowledge. If the property is NOT individually listed, but is a contributing structure in a National Register Historic District, the applicant must provide all of the forms and documentation listed above plus a completed Part I of the Historic Preservation Certification Application.

9. The AHPP easement program staff reviews the application for completeness, makes a staff evaluation as to the historic value of the property, and makes a recommendation as to whether the easement meets the criteria of the AHPP's program.

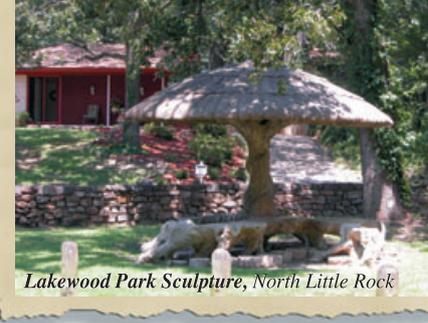
10. The staff works with the potential donor if additional information is needed.

11. Terms of the easement are negotiated. An easement document format is provided. If the donor chooses NOT to use the furnished document, the donor must pay associated legal costs for the document to be reviewed by AHPP's legal counsel. This review and approval must be done before the next step is taken.

12. The application and staff recommendations are submitted to the easement review committee.

13. The committee determines if the easement should be accepted by the AHPP.

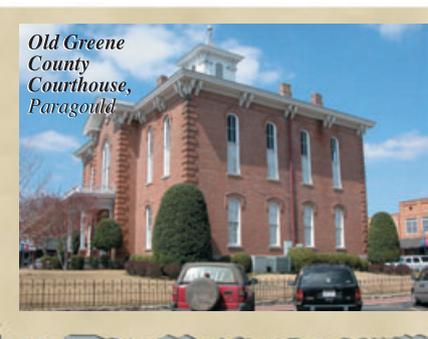
14. The applicant is notified of the committee's decision.



Lakewood Park Sculpture, North Little Rock



Old Federal Building, Harrison



Old Greene County Courthouse, Paragould

15. If the AHPP chooses to accept the easement, the closing of the conveyance of the easement will be handled by the title company.

Whom should I contact?

The staff of the Arkansas Historic Preservation Program is available to discuss the easement program with individuals, give presentations to groups, and provide information on other organizations that accept easements. For more information, write the Arkansas Historic Preservation Program, Attention: Preservation Easements, 1500 Tower Building, 323 Center Street, Little Rock, AR 72201; phone (501) 324-9880, (TDD 501-324-9811); or e-mail to: info@arkansaspreservation.org.

The U.S. Secretary of the Interior's Standards for Rehabilitation

The following standards for rehabilitation of historic properties are taken from the Secretary of the Interior's Standards for the Treatment of Historic Properties. They are common sense principles in non-technical language. They were developed to help protect our nation's irreplaceable cultural resources by promoting consistent preservation practices.

The Standards may be applied to all properties listed in the National Register of Historic Places: buildings, sites, structures, objects, and districts.

The Standards are a series of concepts about maintaining, repairing and replacing historic materials, as well as designing new additions or making alterations. They cannot, in and of themselves, be used to make decisions about which features of a historic property should be preserved and which might be changed. But once an appropriate treatment is selected, the Standards provide philosophical consistency to the work.

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.



Parks School, Scott County

2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in a such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.



Wolfe House, Baxter County