

# Conservation Easements: Protecting Our Water Quality

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*A workshop for attorneys, appraisers, planners, local real estate agents, and  
natural resource managers*

Leaksville United Methodist Church, Eden, NC

February 26th, 2013

9:00 am – 4:00 pm

## **AGENDA**

8:30 – 9:00	Registration
9:00 – 9:15	Welcome
9:15 – 10:15	<u>Conservation Easements - What Landowners and their Attorneys Need to Know</u> Kalen Kingsbury, Associate Director and General Counsel <i>Piedmont Land Conservancy</i>
10:15 – 10:30	Break
10:30- 11:00	<u>Trail Easements – What Landowners and their Attorneys Need to Know</u> Brian Baker, Alamance County Trail and Open Space Coordinator <i>Alamance County Government</i>
11:00 – 12:00	<u>Tax and Estate Planning Benefits of Conservation Easements</u> Thomas A. Worth, <i>The Worth Law Firm, Greensboro, NC</i>
12:00-1:00	Lunch - Provided
1:00- 2:00	<u>NC Conservation Tax Credit Program</u> Scott Pohlman, Director of Conservation Incentives Program <i>NC Department of Environment and Natural Resources</i>
2:00 – 3:00	<u>Valuation of Conservation Easements</u> Michael Clapp, Principal at Michael Clapp & Associates Inc. <i>Michael Clapp &amp; Associates Inc.</i>
3:00 – 4:00	Closing Remarks and Questions

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### Presenter Qualifications

- **Kalen Kingsbury** is Associate Director and General Counsel with Piedmont Land Conservancy, a regional land trust serving the northern Piedmont counties of North Carolina. She joined the Conservancy in 2000 after practicing corporate and securities law with Schell Bray Aycock Abel and Livingston. Prior to moving to Greensboro from Los Angeles in 1997, Kalen served as Associate Corporate Secretary and Senior Finance attorney for Atlantic Richfield Company from 1990 to 1997 and was in private practice with the Los Angeles office of Pepper Hamilton and Scheetz, LLP prior to that focusing on corporate, securities and real estate transactions. Kalen graduated from Duke University with a B.A. in Psychology and earned her J.D. from the University of Maryland School of Law where she was on the Moot Court Board and served as Articles Editor of the Maryland Law Review.
- **Brian T. Baker** is the Trail and Open Space Coordinator for Alamance County in Graham. His trail building and open space conservation experience includes working on the Haw River Trail and the Mountains to Sea Trail development. As an attorney he represented individual clients in complex civil litigation matters, zoning and condemnation matters, real estate litigation, contract drafting and interpretation and regulatory compliance. He holds a J.D. from Wake Forest University School of Law.
- **Thomas A. Worth** is the owner of the Worth Law Firm in Greensboro, N.C. which conducts a specialized practice in Tax, Business Law and Estate Planning. He received his undergraduate degree with honors from the University of North Carolina at Chapel Hill in 1978 and his law degree from Wake Forest University in 1982. He represents clients before the Internal Revenue Service, various Departments of Revenue, in the United States Tax Court, Court of Federal Claims and in Federal District and Appellate Courts. For over 20 years he has been involved in the planning and implementation of Conservation Easements to achieve tax advantages for estate planning and income tax purposes. He is a frequent speaker at continuing education seminars and workshops on Conservation Easements. He is a member of the Tax, Estate Planning and Business Law Sections of the North Carolina Bar Association. He was on the Board of Directors of the National Committee for the New River for fifteen years and was responsible for many of the easements along the New River in North Carolina and Virginia. He enjoys kayaking, fishing, scuba diving, golf and tennis and plays bluegrass and old-time music in what little free time he can arrange.

- **Scott Pohlman** currently serves as Director of the Conservation Incentives Program for the North Carolina Department of Environment and Natural Resources (NCDENR). This position includes managing the Conservation Tax Credit Program, as well as coordinating NCDENR participation in Natural Resource Damage Assessment and Restoration. Scott has also worked with the NC Natural Heritage Program (where one of his tasks was to review conservation tax credit applications), and the North Carolina Coastal Land Trust. He holds a M.S. from the University of Georgia.
- **Michael Clapp** is the principle of Michael Clapp & Associates, Inc. He has over 32 years of appraisal experience including but not limited to; vacant land, conservation easements, shopping centers, office buildings, light manufacturing facilities, and condemnation appraisal including takings and partial takings. His professional memberships include CRE Member – The Counselors of Real Estate of the National Association of Realtors, MAI Member – American Institute of Real Estate Appraisers and Realtor Member – National Association of Realtors. He holds a BA from the University of Kentucky and has since attended numerous courses and seminars involving various real estate appraisal topics.

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## Program Description

February 26th, 2013

Leaksville United Methodist Church,  
Eden, NC

This workshop is a partnership between the Piedmont Triad Regional Council and the Piedmont Land Conservancy. This program is funded in part by a grant from the North Carolina Clean Water Management Trust Fund to the Piedmont Triad Regional Council. The goal of this workshop is to provide attorneys, appraisers, planners, land trust staff and natural resource professionals an increased awareness and knowledge about conservation easements and trail easements. This program will focus on the fundamentals of defining the conservation values of a property, federal and state laws governing conservation easements, tax and estate planning benefits, NC tax credit program for conservation easements and the accepted method for determining the value of land subject to a conservation easement. Conservation and trail easements provide an excellent way to protect our region's water quality while providing potential economic benefits for landowners.

### *Segment 1*

Conservation Easements – What Landowners and their Attorneys Need to Know

Presented by Kalen Kingsbury, Associate Director and General Counsel

Piedmont Land Conservancy, Greensboro, NC

- ◆ Definition of conservation easement
- ◆ Statutory authority for conservation easements
- ◆ Various other relevant state and federal statutes
- ◆ Required elements for conservation easement to qualify as a charitable contribution for income tax deduction purposes
- ◆ Process of negotiating a conservation easement between landowner and land trust
- ◆ Elements of a conservation easement with an emphasis on permitted and prohibited activities.

### *Segment 2*

Trail Easements – What Landowners and their Attorneys Need to Know

Brian Baker

Upper Haw River Trail Coordinator

- ◆ Definition of a Trail Easements
- ◆ Property Descriptions for Trail Easements without a survey
- ◆ Recreational Use Statute
- ◆ Allowable Uses

### Segment 3

#### Tax and Estate Planning Benefits of Conservation Easements

Thomas A. Worth

The Worth Law Firm, Greensboro, NC

- ◆ Income Tax Benefits of Conservation Easements
  - Requirements for Income Tax Deductions and how Conservation Easements can be structured to achieve maximum tax deductions.
- ◆ Estate Tax Aspects of Conservation Easements.
  - How estate taxes can be reduced by Conservation Easements and special rules that apply
- ◆ Practical Application and Examples
  - Examples of how the income tax deductions and estate tax reductions can be coordinated for maximum benefits.

### Segment 4

#### NC Conservation Tax Credit Program

Scott Pohlman

NC Department of Environment and Natural Resources

- ◆ Overview of the tax credit program
- ◆ Recent changes
- ◆ Current efforts and summary

### Segment 5

#### Valuation of Conservation Easements

Michael Clapp

Principal at Michael Clapp & Associates *Inc.*

- ◆ Valuation principles and Techniques
  - Highest and best use
  - Principle of contribution
  - Before and after approach
- ◆ Valuation Requirements and Practice
  - USPAP and generally accepted practices
  - IRS and form 8283 requirements
- ◆ IRS requirements for “Qualified Appraisal by a “Qualified” Appraiser
- ◆ Engaging a qualified appraiser

## **Conservation Easements: Protecting Our Water Quality Course Handouts**

“Conservation options for your Land” Prepared by the Conservation Trust for North Carolina

“Voluntary Conservation Agreements: An Introduction for North Carolina Land Owners”  
Prepared by the Conservation Trust for North Carolina

“Sample Conservation Easements” Prepared by Piedmont Land Conservancy

“Landowner Packet of Information on Conservation Easements” Prepared by Piedmont Land  
Conservancy

“Estate Planning and Financial Aspects of Using Conservation Easements to Acquire and Protect  
Property.” Prepared by Thomas A. Worth

“Planning Proactively For Growth” Prepared by NC One Naturally DENR

“Reviewer Guidelines for Conservation Tax Credit Certification” Prepared by DENR

“Executive Summary of the Eden Area Watershed Assessment” Prepared by Piedmont Triad  
Regional Council

“Water Supply Watersheds” Prepared for DENR by Piedmont Triad Regional Council

“Trail Easement Template” Prepared by Brian Baker

“Recreational Use Statute” provided by Brian Baker