

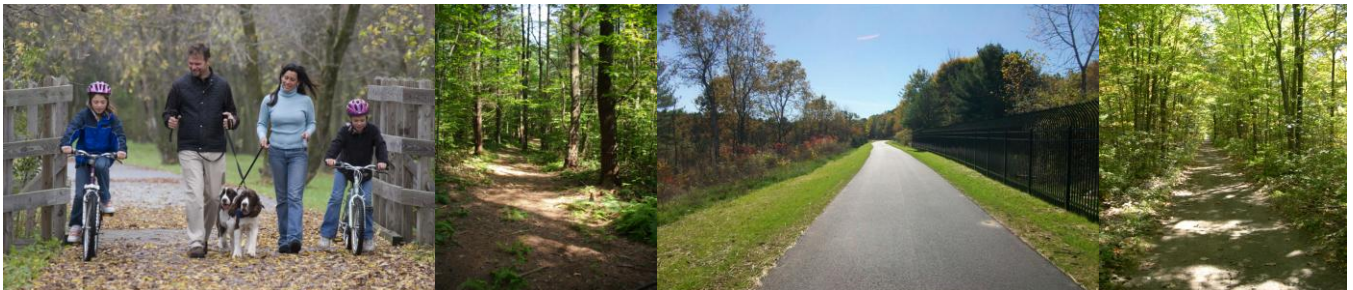
## Fee Interest, Lease-to-Purchase and Option

### Fee Interest

A **fee interest** sale of land is familiar to most people, because this entails selling the land with all the land rights intact with the sale. A willing owner sells the land and all interests in the land/property for a fee – hence the name “fee interest” sale. Municipalities and qualified land trusts making fee interest land purchases for conservation purposes are known as **conservation purchasers**. As the new owner, the conservation purchaser is responsible for maintenance, stewardship and monitoring, public access and liability issues.



When a municipality makes a fee interest property purchase with the stated purpose of land conservation, then it is important that a **conservation easement** (see separate fact sheet) is also placed on the land. Since the land is sold with all rights intact, a municipality could conceivably use the property for any purpose it chooses. Over time, any number of competing needs could cause municipal leaders to choose a land use other than conservation. Therefore, to ensure the land preservation purposes are maintained, a conservation easement should be placed on the land at the time of the purchase. Fee acquisitions, in conjunction with a conservation easement, provide a high level of protection because the ownership and all land rights are controlled by the municipality and/or land trust.



Fee interest conservation purchases are limited by two factors: 1) acquisition is too costly to protect all land that a community values, and 2) many landowners may not be interested in selling.

Fee interest land purchases can be made at full market value or at a bargain sale, each of which have different tax implications for the seller. A “bargain sale” occurs when the property owner sells the land at less than fair market value. A qualified appraiser determines fair market value. The income tax codes allow the reduced portion of the sale price to be used as a tax-deductible charitable contribution by the seller.

Some people may react negatively to land conservation purchases on the grounds that it removes property from the tax rolls. While there are many variables that affect each situation, recent research indicates that the net effect of land conservation can be a positive one for the municipality's financial bottom line. Two principle factors offset the loss of taxable property.



First, the protected land typically raises the value of adjacent and nearby properties. Hence, those adjacent and nearby properties generate additional tax revenue. Second, open spaces do not require or place demands on costly municipal services such as schools, roads, sewage treatment, water, etc. Therefore, the municipality avoids costs associated with providing infrastructure and services that would be demanded by developed lands.

Examples of fee interest transactions that have occurred in Saratoga County are:

- The Moll Property in Stillwater (fee interest donated to Saratoga P.L.A.N.)
- The Corbett Property in Victory (bargain sale of fee interest to Saratoga P.L.A.N.)
- The Sweeney Property on Round Lake (fee interest purchased by Saratoga P.L.A.N. and the Town of Malta)
- The Coldbrook Preserve in the Town of Northumberland
- The Hennig Preserve in the Town of Providence
- The Galway Preserve in the Town of Galway

## Lease-to-Purchase and Option Contracts

Lease-to-Purchase and Option Contracts are used to buy property when funds for the outright purchase are not in-hand at the time of the contract execution. With the **lease-to-purchase** contract, periodic payments are made to the landowner including, principal, interest and other costs. Thus, the economic impact of the Lease-to-Purchase on a municipality is similar to bonding, i.e. periodic payments over time. The Lease-to-Purchase is also structured so that it does not violate constitutional limitations on borrowing and does not exceed the municipality's debt ceiling.

**Option Contracts** are a one-time, upfront payment to hold a property temporarily and keep it off the market, giving the purchaser the opportunity to obtain funds for the purchase.

Both the Lease-to-Purchase and the Option Contract do not necessarily bind the purchaser to "close the deal" or consummate the property purchase. For example, municipal contracts of these types will usually include a provision that the payment of principal and interest is subject to an annual appropriation.



*Saratoga P.L.A.N. (preserving land and nature) is a nonprofit conservation organization working to protect our environment, economy and way of life for present and future generations in Saratoga County. As a land trust, Saratoga P.L.A.N. protects farmland, forestland, waters, natural areas, trail corridors, and historic sites. As a community partner, Saratoga P.L.A.N. provides technical assistance to municipalities to balance growth and conservation and to foster regional cooperation through community planning and implementation. This fact sheet is one of a series entitled "Tools for Community Planning and Conservation." Other titles from the series can be found on Saratoga P.L.A.N.'s website: [www.saratogaplan.org](http://www.saratogaplan.org).*