

We are a free people in a republic, under a constitution which limits the powers of government to those necessary to secure the unalienable rights of each person to their life, liberty and property. Yet, when a legislature is in session, no one's life, liberty or property is safe. It's the curse of a democracy. That's why we have a republic instead. *Freedom Matters* dedicates itself to the fight to restore our republic. Most of the press and courts fail to do so. They've forgotten that freedom matters.

## The Return to Feudal Tenure

by Bob Bowman

Over 200 years ago, we rebelled against England and the feudal system, and established not only a new government, but a new society based on freedoms, rights and liberty. Common people could own land, when only the king or his chosen lords could before! They knew then, from being long repressed, that ownership of land was the basis of all freedoms. They were right. Alas, too many people today do not know that, and are selling themselves back into slavery.

The instrument for this? The so-called "**conservation easement.**" Selling a conservation easement is not the same as selling development rights. It includes development rights, but also much more. Typically, the landowner is committed to maintaining the parcel in its existing natural state, and if they fail to do so, can be compelled by court order to restore the land to the state set by the conservation easement; i.e., **the land title of the landowner is inferior to the conservation easement.**

This can lead to unexpected difficulties and even tragic circumstances for a new property owner who has not discovered an easement has been placed on a particular property. Consider the case of Augustine Natale from Chester County, Pennsylvania, who lost a protracted court battle and had to **witness the tremendous power government can wield when they came and tore down his new home.** Readers interested in this sad story can e-mail *Freedom Matters* and we'll forward a summary of this case to you.

Thus, the landowner has sold a superior property right. Property taxes continue to reflect the value of the property right that was sold. Yet, who pays those taxes? Not the holder of the conservation easement! No, it is the landowner who pays those property taxes, and if the easement is "in perpetuity," the landowner pays those taxes forever. In time, the landowner will pay out the amount for which the easement was sold, and still be obligated to continue to pay the taxes on the worth of that conservation easement. **This is feudal tenure;** i.e., slavery. One holds an inferior title to the land, and must forever pay for the property right held by the superior.

A side effect seldom acknowledged by the proponents of easements is the **future loss of taxing potential a parcel** may have. As more and more land is removed from the tax rolls or it's value frozen by perpetual easements the burden of paying for spiraling government services is spread amongst the remaining citizens.

Another trap in conservation easements is their vagueness as to the rights held by the easement holder. In court cases over those rights, courts have tended to expand the rights of the easement holder beyond what was represented as bought. In time, the landowner can find themselves with little more left than the right to walk on the land. There is no compensation for rights thus confiscated by the courts.

**Add to this the fact that non-governmental or not-for-profit groups with large amounts of foundation funding can enter (OR IN 22 STATES INITIATE!) these cases and make the legal battle harder and much more expensive.**

**The landowner lured to sell a conservation easement on their land should dictate the rights they want to retain.** This includes a clause in the easement that any ambiguity be liberally interpreted in favor of the landowner. **There should also be a clause that the easement holder yearly pay that share of the property tax proportional to the easement price over the price of the whole property covered by the easement.** Many landowners will also want a clause whereby the easement reverts to the landowner if the easement holder fails to pay their share of the taxes or if the easement holder transfers the easement to the government.

**If easement holders, even governments, had to pay their share of the property tax on land so eased, that one reform might cure most of the ills of conservation easements. Finite term conservation contracts would be a fairer device than easements.**

Until then, it's landowner beware!

In future issues *Freedom Matters* will look at ways government uses to "save" property that appear to save the property owner a little money on the tax bill but rob that owner of hundreds of thousands of dollars in property value.

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