Land Trust Activity and Property Tax Assessment in Georgia

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Abstract: Land trusts work at the grassroots level to conserve land and natural and cultural resources. Their activities may be influenced by financial considerations, including property taxes. Questions regarding the perceptions of land trust activity by local government officials and the subsequent property tax assessments of protected land have gone unexplored, due in part to a lack of comprehensive statewide information on individual conserved properties. We present selected data from a statewide census of land trusts to illustrate the extent and characteristics of private land protection activities in Georgia. We then present the results of a qualitative study of county tax assessors regarding their experiences with and treatment of privately protected land. The results show that over the last ten years, land trust activity has grown rapidly in the state, bringing changes in the nature of land protected. With the growth of land trust activity and the development of differential taxation programs for the protection of farm and forestry land, county tax assessors must now measure the public benefit provided by land protection and balance it with the traditional objective of conducting equitable and uniform assessments.

Key Words: Conservation easement, Qualitative research, County government

INTRODUCTION
Land trusts are local, regional, national, and international organizations that aim to protect land and/or natural, cultural, or historic resources through education, property rights acquisition, and cooperation with the government. By the year 2000, there were over 1,200 land trusts nationwide and approximately 38 in Georgia (Land Trust Alliance 2001; Georgia Land Trust Service Center 2002).

Land protected by land trusts either through conservation easements or fee simple ownership must be assessed for property tax purposes. Georgia law entitles the grantor of a conservation easement to a “revaluation of the encumbered real property so as to reflect the existence of the encumbrance on the next succeeding tax digest of the county” (O.C.G.A. § 44-10-1), and exempts “all institutions of purely public charity” from property taxes (O.C.G.A. § 48-5-41). Property taxes can be manipulated to encourage land conservation, such as through differential taxation programs. In that same vein, property tax policies developed for the assessment of land protected by land trusts can have the effect of either encouraging or discouraging land trust activity.

The accurate assessment of easement-burdened properties for property tax purposes faces several obstacles. First, market data are lacking for sales of easement-burdened properties, making traditional valuation methods obsolete. Second, variations in the assessment of such properties are often attributed to varying attitudes among county tax officials (Diehl and Barrett 1988, pp.56-57; Stockford 1990; Ceglowski 1992; Closser 1994). These attitudes may be negative or positive with respect to conservation activities.
easements or land protection in general. Local approaches to the assessment of conservation land held fee simple by land trusts may also vary based on local attitudes.

Property tax assessment of privately conserved land is an issue for landowners and land trusts wishing to participate in private land conservation. A survey of easement donors found that while property tax was not a major motivational factor for landowners who donate conservation easements, it was the issue that caused the most dissatisfaction among the donors (Elconin and Luzadis 1997). The state has also identified problems with the reassessment of easement-burdened properties as a major hindrance to the use of conservation easements in the implementation of the Greenspace Program (Georgia Community Greenspace Program 2002).

Land trusts have a particular interest in the property tax assessment of fee simple conservation land. In a survey, land trusts ranked the ongoing cost of ownership, with property taxes noted in particular, as one of the four most important obstacles to the use of fee simple acquisition (Burkhard 1994).

From the existing literature, it appears that a lack of market data and varying attitudes among county tax officials are the major factors influencing current property tax assessments for privately protected land. While the lack of data upon which to base assessments is a widespread problem that will only be solved over time, local attitudes towards land trust activity can be addressed now, if they are understood. At this point, however, local government perspectives on land trust activity have not been studied.

The objectives of this research were, first, to determine the current use of conservation easements and fee simple acquisition as land conservation tools among land trusts in Georgia, and second, to develop a framework in which to better understand local government approaches to private land protection within the context of property tax assessments.

METHODS

Land Trust Survey. Using a list of Georgia land trusts maintained by the Georgia Land Trust Service Center, we mailed surveys in April 2002 to all the land trusts on the list for a total of 38 survey recipients. Non-respondents first received a follow-up postcard and then received one or more telephone calls and a second mailing of the survey, based on survey methods described by Dillman (2000).

The surveys were designed to determine the current use of fee simple ownership and conservation easements as land conservation tools among land trusts operating in Georgia. They asked for information on every property that each land trust held fee simple or that was encumbered by a conservation easement. Although some of the survey recipients operate in other states besides Georgia, the survey only asked for information on their properties in Georgia. The survey was not sent to government entities that could be holders of conservation easements.

Qualitative Study. We used the grounded theory approach as the basis for the qualitative data collection and analysis (Glaser and Strauss 1967; Rubin and Rubin 1995; Strauss and Corbin 1998). The primary data-collection tool was an open-ended interview with county tax officials, usually the chief appraiser. A total of 14 interviews were held with county tax officials. We selected county tax officials for interviews based on a number of factors. Due to the perceived importance of geographic location, rural or urban character, and land trust activity in influencing a county tax official’s view of private land conservation activity, we selected counties individually based on these factors to represent a wide diversity of counties and regions.
Interviews were also conducted with the executive directors of two land trusts, three conservation easement donors, one official from the Department of Revenue, and one county land use planner for a total of 21 interviews over a non-consecutive 3-month period in 2002. In-person interviews lasted from 20 minutes to 103 minutes, averaging 51 minutes. One interview was held over the phone and, due to time constraints felt by the interviewee, lasted only 11 minutes. All interviews were recorded on audiotape with consent from the interviewee and transcribed. Once all transcriptions were complete, we had approximately 180 pages of transcribed interview data with which to conduct a grounded theory analysis.

Due to the public nature of the county tax official’s position, all quotes presented in the results are uncited. We promised confidentiality to all interviewees in order to allow them to speak freely without concern of criticism from the publics or the governments they serve, or from their fellow appraisers.

RESULTS AND DISCUSSION

Land trust survey. We received responses from 92 percent of the survey recipients. Twenty-five (68 percent) of the land trusts that responded currently protect land through fee simple ownership or conservation easement. The current state of private land conservation in Georgia is summarized in Table 1.

Table 1: The use of conservation easements and fee simple acquisition by land trusts in Georgia in 2002

<table>
<thead>
<tr>
<th>Tool</th>
<th>Number of land trusts using tool</th>
<th>Number of counties with protected land (out of 159)</th>
<th>Number of acres</th>
<th>Number of parcels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conservation easement</td>
<td>23</td>
<td>42</td>
<td>45,352</td>
<td>141</td>
</tr>
<tr>
<td>Fee simple acquisition</td>
<td>13</td>
<td>34</td>
<td>19,358</td>
<td>84</td>
</tr>
<tr>
<td>Total</td>
<td>25</td>
<td>57</td>
<td>64,710</td>
<td>225</td>
</tr>
</tbody>
</table>

As seen in the Table 1, almost every active land trust in the state uses the conservation easement as a conservation tool, and about half use fee simple ownership. Just over one-third of the counties in the state have land trust activity.

Private land conservation through the use of conservation easements and fee simple acquisition has grown rapidly in the past decade. Figure 1 shows the rise in the number of parcels in fee simple and conservation easement held by land trusts in Georgia. While fee simple acquisition was the first tool used by land trusts for land protection in Georgia, the use of conservation easements eventually surpassed it. By 2002, conservation easements comprised 63 percent of the total number of parcels of conservation lands and 70 percent of the total acreage of conservation lands.
As land conservation through fee simple ownership and conservation easements has increased over the past 40 years, the nature of the parcels has changed in some respects. Figure 2 shows the change in average parcel size over time. While the average size of fee simple parcels has remained about the same, the average size of conservation easement parcels has decreased by approximately 75 percent since its highest point in 1991.

Figure 2: Average parcel size of properties held fee simple and in conservation easement by land trusts in Georgia, 1990-2002
There are clear patterns in the distribution of land trust activity around the state. Figure 3 shows that North Georgia has the majority of parcels protected by land trusts, but these parcels are, on average, smaller. South Georgia has the vast majority of the acreage protected by land trusts spread among relatively few large tracts.

![Figure 3: Distribution of land trust activity in Georgia](image)

To conclude the land trust survey results, we found that land trusts in Georgia had protected about 65,000 acres by the year 2002. This is approximately the same amount of land that is within the Georgia state parks system.

Some of the survey findings have significance for property taxes. In particular, the greatest proportion of parcels protected by land trusts is in North Georgia, where property taxes are more significant due to higher land values. Also, the increasing popularity of conservation easements has implications for property taxes because partial interests are more difficult to assess for property value. The next section will explore the issue of property taxes in more detail.

**Qualitative study.** From the analysis of our interview data, we developed the grounded theory that the county administration of property taxes for privately conserved lands\(^1\) is influenced by an effort to measure the public benefit provided by land protection and balance it with the traditional objective of conducting equitable and uniform assessments. This grounded theory is built upon a number of related themes. The themes presented here include the consideration among tax assessors of 1) equitable and uniform treatment; 2) state versus local authority; and 3) the perceived conservation value of private land protection.

**Equitable and uniform treatment.** County tax assessors are interested in achieving equitable and uniform assessments both within their counties and across counties. As one tax assessor explained, “Every year when we send out all the assessment notices…, people’s biggest fear is this: am I in the same boat as my neighbors? Are we all being treated the same together? If you can pretty much demonstrate that, you’re okay.” However, tax assessors may experience difficulty in achieving such goals, given certain

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\(^1\) In the context of the interviews, the programs and tools for land protection that were discussed included the Conservation Use Program (Georgia’s differential taxation program for farm and forestry land), conservation easements, and fee simple conservation land.
state policies and laws. Tax assessors used the Conservation Use law as an example: “Right now there are 159 different counties, so I’d probably estimate that there are 159 ways [the Conservation Use Program is] being done. And that’s a problem, that’s really a problem.”

**State versus local authority.** Considerations of state versus local authority are important in understanding the way that local tax officials approach the assessment of privately protected land. Often associated with issues around state versus local authority is the clarity of state law. One tax assessor described a situation in which a land trust had applied for an exemption for their fee simple property. The tax assessor denied the exemption, and the land trust appealed the denial with the county’s board of equalization. He went on to explain, “The [land trust] took it to the Board of Equalization, which we didn’t really object to; we thought they were doing a good thing, but we just didn’t have the authority [to exempt it].” In this instance, the local tax officials were interested in promoting the private land protection by providing an exemption, but did not feel that the state had given them the clear authority to do so. Instead, they felt it necessary to follow the longer appeals process.

A second concept that arises with issues of state versus local authority is local governments’ perception of burdens imposed by state laws. Conflict may arise between state interests in, for example, greenspace protection, and the resulting impact on the tax base at the county level. The argument has been made that counties end up carrying the financial burden for benefits enjoyed by all residents through the state-sanctioned exemption of certain properties (Siegel 1997). As a result, counties may end up resenting state mandates for exemptions.

While some tax assessors did express this general concern in our interviews, we found that, at least with respect to special assessments for the promotion of land protection, most tax assessors did not resent state-mandated exemptions or reductions in assessments. As one tax assessor explained, “We’re here to do a job, and that job is to enforce the laws of the state. Now of the state comes out with some kind of laws that we should exempt these things and develops some criteria for that, that’s fine.” This quote is especially illustrative because it came from a tax assessor in a county with a particularly high exempt digest; he was especially conservative about exempting properties.

The question then arises, “Why would some tax assessors view special assessments for land protection at least somewhat favorably?” This leads to the third theme to be discussed, the perceived conservation value of private land protection.

**The perceived conservation value of private land protection.** As was stated in the grounded theory at the start of this discussion, given new tools and programs for land protection in Georgia, tax assessors are finding themselves attempting to measure the public benefit provided by private land protection. One basis for this measurement is the concept behind cost-of-community-services studies (CCSS). CCSS’s show the impacts of various levels of development on county revenues from property taxes. One tax assessor explained it this way:

You can’t just think about [land protection] in terms of, ‘how much money are we losing on the tax digest?’ Because really, if that were developed into…minimal cost and minimal value houses, then its really costing the county money, because they’re not paying enough in taxes to offset what it costs to fund those houses and pave those roads and so on.
From the interviews, we found that tax assessors in general are highly cognizant of the concept behind CCSS’s, and apply it in their work.

Finally, there are less concrete ways in which tax assessors may go about measuring the public benefit provided by private land protection. The last two quotes provided here, each from a different tax assessor, serve as examples of the various perceptions that tax assessors may hold towards private land protection, and that may influence their assessments.

1) [These easement-burdened properties provide] a big benefit…capital letter B big. Beautiful land…, great scenic value…, the amount of wildlife you see is incredible…, And talk about other environmental benefits, we have very clean air; we have some of the cleanest water in the state of Georgia.

2) Well then when you ask them if its open to the public, ‘oh, well no, they’ve got to get permission to go on it.’ Well that’s not open to the public. If this is going to be for public benefit, purely charitable benefit, there shouldn’t be a loop you’ve got to jump through to get there.

Later in the interview, this tax assessor went on to say, “Somebody has got to bring [a policy] together, and get something that’s sound, that will pass a lot of tests. And nobody’s done that.”

The conclusion that we draw from the qualitative analysis is that the efficiency of rewarding credible private land protection through property tax reassessments is hindered by a lack of clarity and guidance in state law and policy. To address this problem, we are recommending state policy revisions and adoptions that would provide greater uniformity in the property tax assessment of privately protected lands.

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LITERATURE CITED


