



MAINE REVENUE SERVICES PROPERTY TAX DIVISION PROPERTY TAX BULLETIN NO. 24

EFFECTS OF EASEMENTS ON JUST VALUE

REFERENCE: Title 36, MRSA, Section 701-A

Issued January 14, 1983

1. The Law. In the assessment of property, assessors in determining just value are to define this term in a manner which recognizes only that value arising from presently possible land use alternatives to which the particular parcel of land being valued may be put. Assessors must consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. Restrictions shall include but are not limited to zoning restrictions limiting the use of land, subdivision restrictions and any recorded contractual provisions limiting the use of lands. The just value of land is deemed to arise from and is attributable to legally permissible use or uses only."
2. In General. Certain easements, including conservation easements and right of way easements, contain enforceable restrictions relating to the use of the property which must be reviewed on an individual basis to determine their specific effect on the valuation of the property subject to the restrictions.
3. What is an Easement? An easement is a right, privilege or liberty which one has in land owned by another; it is a right to a limited use in another's land for some special and definite purpose. It is a non-possessory interest since the owner of an easement does not possess the land itself - he merely has the right to do certain acts on the land of another.
4. Nature of Easements.
 - A. Affirmative - one which allows the holder of the easement to do certain acts on another's land.
 - B. Negative - one which allows the holder of the easement to prevent an owner from doing certain acts on his own land.
5. Types of Easements.
 - A. Conservation Easements set forth in legal documents serve as a permanent guide to the future use of privately owned land; granted voluntarily by a landowner in deed form and recorded in the Registry of Deeds in the county where the property is located. Thereafter, the easement "runs with the title" of the land. Conservation easements range from those which state that the land will remain forever wild to those which permit limited residential and commercial use of the land.
 - B. Rights of way across another's land.
 - C. Right to lay pipes underneath or on another's land.
 - D. Right to place utility lines across another's land.
 - E. Right to flood another's land.

6. Valuation of Properties either Subject to Easement or Adjacent to Properties Subject to Easement.

A. There is no rule of thumb which establishes the just value of property subject to easements.

B. Each easement must be carefully reviewed by itself to determine how each condition stated in the easement may affect the just value of the subject property or other properties. An easement which allows limited development rather than no development may still have an impact on the total value of the property.

C. After reviewing the conditions of each easement, the assessor must decide whether the specific conditions increase or decrease just value or actually have no effect on the just value of the subject property or other properties.

D. The conditions of the easement may affect the just value of the subject property, adjacent properties or properties located in the vicinity of the subject property.

7. Examples of Factors to be Considered in the Valuation of Properties Subject to Easements or Other Properties Affected by the Existence of Easements.

A. Conservation easements may specifically limit the highest and best use of the subject property by restricting the size or number of structures which may be constructed as well as the specific use to which the land and structures can be put. This may decrease the just value of the property or properties subject to the easements. Since an easement restricts or otherwise reduces the freedom of a landowner to enjoy full use of his property, it usually does not increase the just value of the land so restricted. A "forever wild" conservation easement prohibiting the building of any structures on land that is otherwise developable may substantially reduce the just value of a property.

B. Easements created for the purpose of granting rights-of-way for roads, utilities, or pipelines can affect parcels differently. Availability of electrical power in many situations might increase the value of land formerly without any electrical power. Other easements which tend to separate an affected parcel might reduce the value of the separated parcel.

NOTE: This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. If further information is needed, contact the Property Tax Division of Maine Revenue Services.

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