

Office of the County Executive

Alan McCarthy
County Executive

Alfred C. Wein, Jr.
Director of Administration

Office: 410.996.5202
Fax: 800.863.0947

Department of Land Use & Development Services

Eric Sennstrom, AICP, Director
Office: 410.996.5220
Fax: 800.430.3829

Tony Di Giacomo, AICP, Chief
Office: 410.996.5220
Fax: 800.430.3829

County Information
410.996.5200
410.658.4041



CECIL COUNTY, MARYLAND

Division of Planning and Zoning
200 Chesapeake Boulevard, Suite 2300, Elkton, MD 21921

January 29, 2018

Property Owner
Farm or Business Name
Address
City, State Zip

RE: FY2019 MALPF Application Cycle

Dear Property Owner,

The purpose of this correspondence is to inform you that applications to sell an agricultural easement to the Maryland Agricultural Land Preservation Foundation (MALPF) are now being accepted by Cecil County Government. MALPF is the State funded easement program in which over 14,750 acres of farmland have been preserved in Cecil County alone. In Fiscal Year 2017, twenty-five applications were submitted to Cecil County, which were reviewed, scored, and ranked. MALPF limited each County to eight submittals for consideration. MALPF has yet to announce the total number of applications that a County may submit for the upcoming cycle.

As a pre-requisite to applying for MALPF, a valid Soil Conservation and Water Quality Plan must be in place on the property. The plan may be in the owner or operator's name, and it must be less than ten years old. If you are unsure of the status of your Soil Conservation and Water Quality Plan, please contact the Soil Conservation District at 410-398-4411 ext. 3, to ascertain its status.

The application to apply is quite extensive, and the answers on the application could have an effect on the future use of your property should an easement be purchased. As in the past, I will complete as much of the application as possible, but please contact me no later than April 27, 2018 with your intentions to apply, so that there is adequate time to prepare the application. Once I have completed as much of the application as possible, I will mail it to you for your review, completion, and signature. The Cecil County deadline to return the completed signed application is **May 25, 2018**. As a reminder, if you have completed an application in the past it does not automatically carry over to the next cycle. **A NEW APPLICATION MUST BE SUBMITTED EVERY CYCLE FOR YOUR PROPERTY TO BE CONSIDERED FOR EASEMENT.**

The ranking of Cecil County applications is expected to be completed by the end of June, after which you will be notified if your application has proceeded to the state for review. Please note, per the Md. Code Ann. §2-510(m)- Agriculture Article, your ranking, asking price, and Foundation offer must remain confidential until the end of the cycle, as determined by MALPF.

In order to assist you in the decision making process for your MALPF application, I have include several handouts with further details about the choices on the MALPF application. A copy of these handouts, the MALPF application, and scoring methodology are available on the County's website at www.ccgov.org.

If you would like to submit an application for easement or need more information, please call me at 410 996-5220 or by email at soconnor@ccgov.org. Once a signed application is received, a confirmation letter from this office will be sent to you. Additional information about the MALPF program is available on their website, mda.maryland.gov/MALPF

Thank you for your continued support of agriculture in Cecil County!

Sincerely,



Stephen J. O'Connor, AICP
Zoning Administrator
Cecil County MALPF Program Administrator

Enc: Questionnaire Worksheet
The Effects of the Septic Law on Cecil County MALPF Applications
Dwellings & Lot Selection
Pre-Existing Tenant Dwelling Designation Policy
MALPF Withheld Acreage Policy
Ownership Entity Information requirements
How Does Asking Price Affect Your MALPF Application
Map of Priority Preservation & Rural Legacy Areas

cc:

When you call to request an application, I will ask you the following questions. Please use this worksheet to assist you.

Name: _____

Property Location: _____

Is the farm a full or part time operation? _____

A full time farmer is defined as someone that derives 50% or more of their income from farming.

Is the farm operated by the owner or a renter? _____

If it is a mix of both, then who works the majority of the property.

What is the farming operation? _____

Grain Crops, Dairy, Equine, Poultry, Hay, etc.

How many dwellings are on the property? _____

This includes tenant homes, accessory apartments, workforce housing, mobile homes, etc. Please refer to the Dwelling & Lot Selection Sheet for details.

Do you wish to reserve any lots, and are any areas to be withheld from easement?

Please refer to the Dwelling & Lot Selection Sheet for details.

Withheld Acreage: _____, Location on Property: _____

Lot Selection - Choose only one

Unrestricted Lot *Subdividable:* *Non-Subdividable*

Family Lots (Subject to Density restrictions)

Waive all rights to future Lots

What is your asking Price? \$ _____

Who is the Point of Contact? _____

Contact Phone: _____

Contact email: _____

IF TITLE TO THE PROPERTY IS HELD IN AN OWNERSHIP ENTITY (LP, LLC, INC., TRUST, etc.), THEN A COPY OF THE PAPERWORK MUST BE SUBMITTED. Please see Ownership Entity Sheet for details

THE EFFECT OF THE SEPTIC LAW ON CECIL COUNTY MALPF APPLICATIONS

On December 17, 2012, County Executive Moore administratively adopted a Senate Bill 236 Tier Map for Cecil County. This action was taken in accordance with Section 2.2.4 of the implementation and guidance documents associated with the Sustainable Growth and Agricultural Protection Act of 2012. The adopted map placed properties that have already eliminated their development right in the most restrictive Tier IV category. Only minor subdivisions with onsite sewage disposal system (septic) may be created on properties with the Tier IV designation. The definition of minor subdivisions in Cecil County is the creation of a maximum of five lots from how the parcel existed on April 15, 1976. All other properties, without or not planned for sanitary sewer service, were placed in a Tier III designation. This was done to preserve your choice on the future use of your property.

In August 2014, the Maryland Department of Planning advised the MALPF program that any property located within a Priority Preservation Area or a Rural Legacy Area should be designated as Tier IV, and thus should have only minor subdivision potential for appraisal purposes. Cecil County immediately sent a rebuttal to MALPF indicating that only the County has the authority to determine subdivision potential. MALPF staff prudently sent both opinions to the Maryland Attorney General's office for review, and in September 2014 the Attorney General's office and MALPF Board of Trustees agreed with the Maryland Department of Planning, thus only minor subdivision potential was considered for MALPF applications in the Priority Preservation and Rural Legacy Areas.

In addition to appraisal purposes, this also limits the number of development rights that a landowner can sell to the MALPF program. When you make your reserved lot selection please remember that all pre-existing dwellings¹, lots created by subdivision between 1976 and today, and reserved lots from the MALPF application² are deducted from the number of development rights to sell to MALPF. **THERE MUST BE AT LEAST ONE DEVELOPMENT RIGHT TO SELL IN ORDER TO QUALIFY FOR MALPF.**

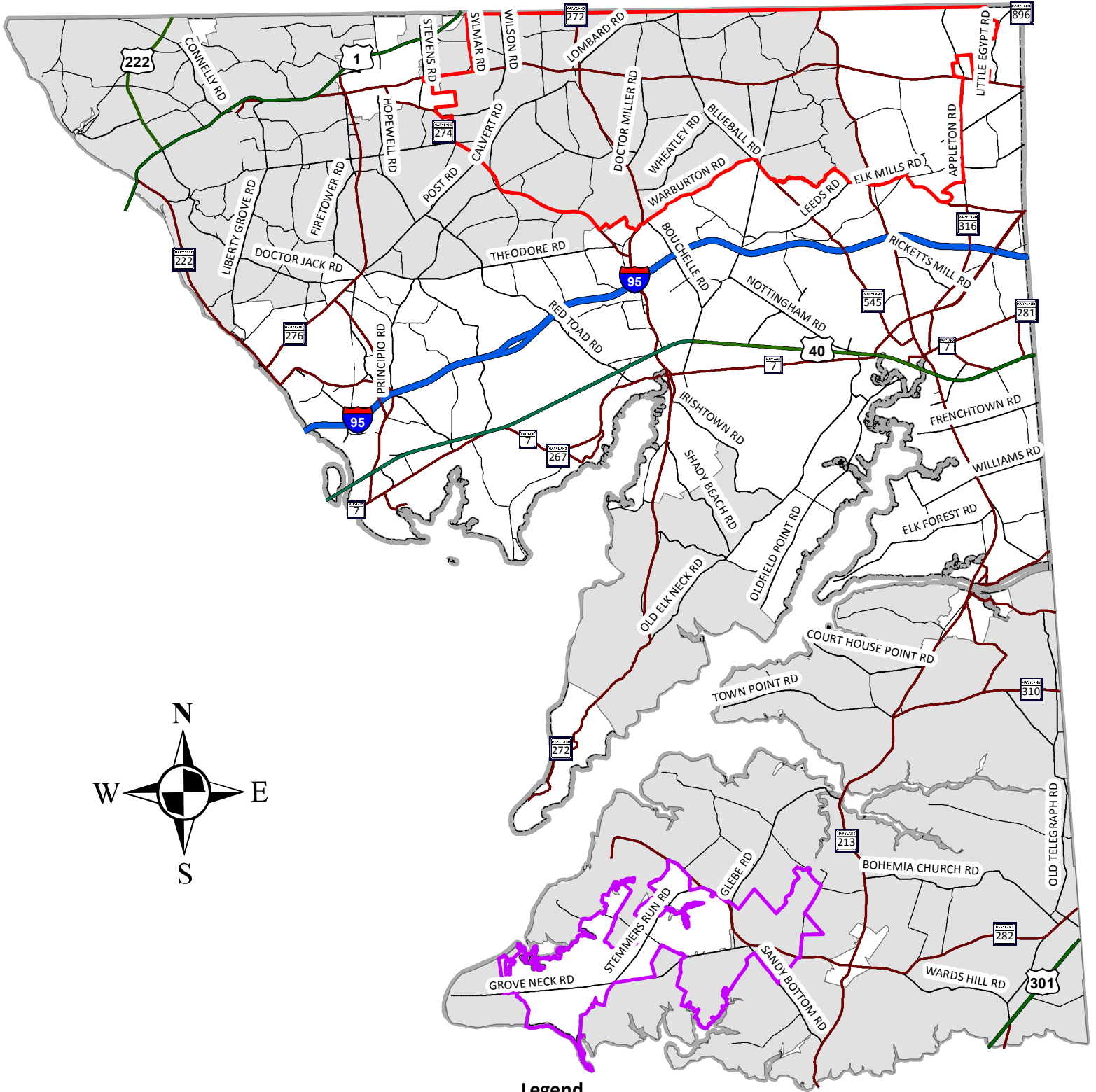
If you don't know the amount of development rights available on your property, please contact Mr. Matt Littlejohn of this office to complete a Subdivision Inquiry. There is no charge for this service, and all you need to provide is your account ID from your tax bill or the address of your property. Matt can be reached at 410-996-5220 or by email at mlittlejohn@ccgov.org.

I have included a map showing the location of the placeholder Priority Preservation and Rural Legacy Areas for your use. Should you have any questions regarding MALPF's policy on the implementation of the Septic Law for Cecil County properties, you can contact their staff at 410-841-5860.

¹ Approved pre-existing tenant dwellings are exempt. See the pre-existing tenant dwelling policy for more details.

² Family lot selection is exempt from lot deduction.

Priority Preservation & Rural Legacy Areas



Legend

- Sassafas Rural Legacy Area
- Fair Hill Rural Legacy Area
- Priority Preservation Areas

DWELLINGS AND LOT SELECTION

Section #1 Pre-Existing Dwellings

The total number of pre-existing dwellings, tenant houses, or permanently affixed trailers (i.e., those with electrical & sewage hook-ups and wheels removed) must be entered on the application. If you have questions about what constitutes a pre-existing dwelling, please contact the County Program Administrator. Please ensure that the number of pre-existing dwellings indicated on this form is accurate. The property is appraised based on the information provided on this application; therefore, **the number of pre-existing dwellings may not be changed after the application is received** by the Foundation and sent for appraisal. If you change the number of pre-existing dwellings after the application deadline, you must withdraw your application and apply in a subsequent year with the amended number. If the Foundation purchases an easement on this property, you or any subsequent owner may not, at any point in the future, claim as a pre-existing dwelling, a structure, foundation, or other evidence of a previous dwelling which is not acknowledged on this application. In the appraisal process, each pre-existing dwelling is valued as an exercised development right affecting the offer made to you by the Foundation.

Pre-existing Dwellings and Tenant Houses Certification by Landowner

The Foundation has approved a policy that provides special consideration of tenant houses with regard to potential development density when appraising properties for easement sale. The Foundation may recognize the designation by a county of certain pre-existing dwellings as tenant houses which would otherwise be counted as a used density right. The Foundation will direct the Department of General Services lead appraiser to inform the appraisers selected to assess the property not to assign a development right to any pre-designated tenant house. If the landowner is seeking a pre-existing dwelling(s) to be designated as a tenant house(s), the landowner must submit an application to be reviewed by the County's Agricultural Preservation Board in advance of the FY2019 application deadline. A signed application, approved by a person or persons sanctioned by the county to make such designation and certification, must be submitted for EACH proposed tenant house.

Section #2 Withholding Acreage

The Foundation generally discourages the exclusion of acreage from the easement. The Foundation's policy allows the exclusion of acreage only under certain conditions. A copy of the policy is enclosed. Provide an explanation for withholding the acreage on a separate sheet. If withheld acreage is not within a priority funding area and would require forest mitigation when developed, sufficient acreage must be withheld to accommodate that mitigation. Please be aware that withholding acreage from the easement will decrease the appraised value. The appraisers will deduct the total development potential associated with the excluded acreage. If approved, the easement will cover the entire property, minus the withheld acreage. If the Foundation's Board of Trustees does not approve the withheld acreage during its review of the application, you will have the option to apply to sell an easement on the entire property, or you may withdraw your application.

If the Foundation approves your request to withhold acres, and an easement offer is extended, at the settlement of the sale of the easement, the Foundation's policies also require a Restrictive Covenant to be placed on the withheld acres to forever limit those acres to a maximum of three development rights, or less, depending on what current county zoning regulations dictate.

Section #3: Lot Selection: - Choose only one option

1. **Family lots** are a right that is granted to the original easement owner. It is tied to that person(s), not the land. Family lots are for the use of the owner and his or her children to construct a dwelling only for his/her/their personal use. Since family lots are released only to the owner and/or his or her children, are not for commercial development, and may not be transferred to other individuals, they are not considered marketable and are not counted against the development rights on the property in the appraisal. Do not select the number of family lots at this time. Family lots, up to a maximum of three, may be requested anytime after recordation of the easement or when there is no pending easement application. The density requirements for family lots are as follows: one lot for the first 20 acres; a second lot for the next 50 acres (requires a total of 70 acres); and three lots for the next 50 acres (requires a total of 120

acres). If a county's density requirement to construct dwellings is more restrictive than the Foundation's, the county's density requirement prevails. Eligibility to request family lots ends upon the original owner's transfer of the property or the death(s) of the original owner(s) of the easement, whichever comes first.

If an original owner should die before requesting lots for eligible children, the Foundation may deny any requests to release lots for the children. As a form of insurance against such an occurrence, a landowner may formally state the intent to create a child's lot for specifically named eligible children in a letter to the Foundation that is placed in the easement file. The landowner may include language in his/her will, which clearly indicates his/her intention to create lots for the named children. By presenting the Foundation's letter of approval, a letter from the Foundation acknowledging receipt of the letter of intent, or the will, the landowner's children may complete the lot release transaction after the landowner's death. However, even if a landowner has formally documented his intention to create lots, any uncompleted lot release transactions are null and void when the property is sold or ownership is transferred from the estate or one of the named children to a subsequent owner.

2. **Unrestricted lot** is a right that is reserved to any owner of the property, regardless of who the original owner is or relationship to them. An unrestricted lot is tied to the land, not a person(s), and transfers to subsequent owners until that right is exercised. Therefore, when an unrestricted lot is selected, the value of one development right is subtracted from the total available development rights in the appraisal of the value of the property. The easement will cover the entire property. When you or a future landowner decides on the location of the unrestricted lot, you must apply to the Foundation for approval of the location. When the location is approved, the landowner must pay back to the Foundation the per acre amount that the original landowner received for the easement.

There are two choices when selecting the unrestricted lot option; a subdividable lot and a non-subdividable building envelope. The subdividable lot option allows the current (or future) landowner to request the creation of lot, subject to Foundation approval in accordance with the Foundation's Lot Location Policy. The residential lot may be created, subdivided into its own tax account/parcel, and transferred ownership to any party. The non-subdividable building envelope option allows the current (or future) landowner to request the establishment of a 1-acre "envelope" to construct a dwelling. This also requires Foundation approval, however, since the "envelope" is not permitted to be subdivided and transfer to any other party, the Foundation may consider locations that do not meet the location guidelines since the owner of the dwelling and the owner of the farm will always be the same. The term "unrestricted" as a description of the type of lot refers to the fact that there are no obligations or requirements on who is permitted to live/own a dwelling that was created through this lot option selection.

3. **Waive all rights to lots.** The Foundation recognizes that some applicants may wish to extinguish all rights to new dwellings on their properties. If you wish to waive all rights to new building lots on your property, please select the third option. Note: This does not affect the right to request future tenant house(s).

You may not change the lot option you have selected unless you withdraw your application and apply in a subsequent year.

POLICY FOR PRE-EXISTING TENANT HOUSE DESIGNATION FOR MALPF APPLICATIONS

The Foundation has approved a policy that provides special consideration of tenant houses with regard to potential development density when appraising properties for easement sale. The Foundation may recognize the designation by a county of certain pre-existing dwellings as tenant houses which would otherwise be counted as a used density right. In order to receive this designation, an application for the designation of a pre-existing tenant dwelling must be submitted to the Cecil County Department of Land Use and Development Services. The application must also include an aerial map labeling the structures to be designated as pre-existing dwellings. The process on an application is submitted is as follows:

1. The deadline to submit the application is the third Thursday of the month for a decision at the following month's Agricultural Preservation Advisory Board (APAB) meeting.
2. The application will be reviewed by the Zoning Administrator to verify that the proposed tenant dwellings are legally permitted per the Department of Land Use & Development Services regulations.
3. The application will then be reviewed by the County's MALPF program Administrator to verify compliance with COMAR 15.15.03¹ (MALPF Tenant Dwelling regulations), and the MALPF "Pre-existing valuation / tenant house designation policy".
4. The request will be forwarded to APAB for review and final decision. APAB will consider the following items in their review:
 - a. Is the property currently engaged in agricultural uses?
 - b. What is the nature and scope of the farm operation?
 - c. Is the dwelling currently occupied by a tenant?
 - d. What are the farmer's duties and responsibilities relative to the farming operation?

NOTE: Approval of the application does not place the restrictions of COMAR 15.15.03 on the pre-existing tenant dwelling immediately. The restrictions are memorialized as a covenant in the agricultural easement if one is purchased by MALPF.

If you are seeking a pre-existing dwelling(s) to be designated as a tenant house(s), a signed application, must be submitted for EACH proposed tenant house. Please contact Steve O'Connor at 410-996-5220 or by email for a copy of the application and an aerial map of your farm.

Applications to designate a pre-existing tenant dwelling must be submitted to the Department of Land Use & Development Services by **April 19, 2018** in order for the designation to be complete in time for the FY 2019 MALPF application.

¹ Staff's review will not penalize legally existing dwellings that approval of the pre-existing tenant house designation would cause the tenant dwelling to become non-conforming with COMAR 15.15.03.

MALPF Withheld Acreage Policy

Traditionally, relatively few landowners wishing to establish a MALPF district have proposed withholding part of the farm from the district. Most such requests are made for one of several reasons: to meet qualifying soils criteria, to exclude land used to store landscaping equipment, or to develop one or two lots. Most counties consider these legitimate reasons, in terms of the purpose of the Program. Some counties do not allow land to be withheld from the establishment of a district.

If the land is to be withheld for the development of more than a few lots, it may undermine the purpose of the Program and result in substantial residential subdivision next to an easement. Residential neighbors can view the noise and odors as nuisances and attempt to alter or stop agricultural and forestry operations, thereby compromising public investment in the land for productive agriculture and forestry.

Finally, when land is withheld and the district is valued for easement purchase, it can be impossible to ensure that the State is extinguishing the number of development rights for which it pays. The result is that development rights may be purchased with public funds, but those rights may subsequently be used for development on withheld land, undermining the public investment.

The Foundation's policy to guide the approval of districts from which contiguous acreage is being excluded or withheld is as follows:

- In general, the Foundation should accept district applications if the withheld land poses little or no potential risk to future agriculture and forestry on the district.
- The Foundation should reach agreements with each county to ensure that development rights the State pays to extinguish are not retained for private use by the original or a subsequent owner of withheld land.

Legitimate Reasons for Exclusion of Land from Districts:

- To meet qualifying soils criteria.
- Land excluded is zoned for development.
- Land is planned for a non-agricultural public purpose.
- Land is not developable, e.g., wetlands.
- Excluded land contains existing commercial or residential development.
- Withheld land poses little or no potential risk to investment in the district for agriculture.
- Land is under local agricultural zoning and will allow three or fewer lots.
- To allow the owner of a farm with no dwelling on it to withhold up to two acres for a dwelling for the current or a subsequent owner; such withheld acreage must not be subdividable from the farm.
- Such other legitimate reasons as the Maryland Agricultural Land Preservation Foundation may determine.

HOW DOES ASKING PRICE AFFECT YOUR MALPF APPLICATION?

Asking price does not play as big of a role in determining if your property will be accepted for easement as some may think. When MALPF makes an offer it will pay the lowest of three possible numbers:

1. Your asking Price
2. Easement Value - This is the Fair Market Value minus a calculated Ag-Value.
3. 75% of Fair Market Value

When MALPF determines which properties to select the funding is separated into two rounds. The properties selected in the first round are based off of the County's evaluation rankings, starting with the property that is ranked number one. MALPF then goes down the list until all of the round one funds for that County are used, or there aren't any more properties on the list¹. The second round funds are any funds that were not committed or used in first round. All properties that were not made an offer² will then be ranked on a statewide list based on the asking price's discount percentage from fair market value. Second round offers then start at the top of that list and continue until all funding is used up. Since it's a statewide list your property would be competing with properties from other counties.

Example

Round 1

Regardless of your asking price, Round one offers are made based on how your property ranks. The offer prices are the lowest of the three possible criteria.

Applicants Rank	Applicants Asking Price	Fair Market Value	Offer Amount
1	\$8,000	\$6,000	\$4,500 (75% cap)
2	\$6,500	\$7,000	\$5,250 (75% cap)
3	\$10,000	\$8,300	\$7,200 (Easement Value)
4	\$5,500	\$9,000	\$5,500 (Asking Price)

Round 2

Any applicant that didn't receive a full offer in Round 1 would be eligible for a Round 2 offer based on the percentage of asking price below Fair Market Value

County	Applicants Asking Price	Fair Market Value	Percent of FMV
Baltimore	\$7,500	\$20,000	37.50%
St. Mary's	\$5,000	\$13,000	38.46%
Cecil	\$4,500	\$9,000	50.00%
Talbot	\$2,500	\$3,000	83.33%

Should you have any questions, please contact Steve O'Connor at 410-996-5220 or by email at soconnor@ccgov.org

¹ Please note that if remaining funding is less than 25% of your offer amount, MALPF will skip over you on the list. This is to ensure that a fair offer is made to you.

² If a Round One offer is a Non-Sufficient Funds (NSF) offer, the owner could reject it and then the property would be included in the competition for a round two offer. There are no guarantees that an owner that receives an Round One NSF offer would receive a Round Two offer. A NSF offer is an offer of the remaining funds, but not enough to meet full offer amount under MALPF's rules.

OWNERSHIP ENTITY INFORMATION

All members/partners/trustees/shareholders of the ownership entity must be listed on the MALPF application. In addition:

A property owned by a corporation is required to submit a Resolution attesting that the offer to sell an easement has been reviewed and favorably voted upon by the corporation's Board of Directors. The Resolution should also authorize one or more persons to act on behalf of the corporation to sign all necessary documents associated with the sale of an easement. If the corporation is to be treated as a "family corporation" for purposes of a family lot reservation, list all of the stockholders of the corporation and their relationship to each other.

A property owned by a partnership (limited or general) is required to submit a Resolution attesting that the offer to sell an easement has been reviewed and favorably voted upon by the partners. The Resolution should also authorize one or more persons to act on behalf of the partnership to sign all necessary documents associated with the sale of an easement. The partnership must also submit a copy of its partnership agreement and all amendments thereto. If the partnership is to be treated as a "family partnership" for purposes of a family lot reservation, list all of the partners of the partnership and their relationship to each other.

A property owned by limited liability company (LLC) is required to submit a Resolution attesting that the offer to sell an easement has been reviewed and favorably voted upon by the members. The Resolution should also authorize one or more persons to act on behalf of the LLC to sign all necessary documents associated with the sale of an easement. The LLC must also submit a copy of its operating agreement and all amendments thereto. If the LLC is to be treated as a "family LLC" for purposes of a family lot reservation, list all of the members of the LLC and their relationship to each other.

A property owned by a Trust (or Trustees) is required to submit a copy of the Trust Agreement and all amendments thereto. If the Trust has elected a family lot reservation, list all beneficiaries of the Trust and their relationship to each other.