



**CONSERVATION
EASEMENTS:
FISCAL IMPACTS TO
LOCALITIES IN THE
MIDDLE PENINSULA**

- 
- All truth passes through 3 stages
 - First, it is ridiculed
 - Second, it is violently opposed
 - Third, it is accepted as being self-evident



Political Confusion: **Love**/HATE

- “..... Without easements, some of this land would have enormous fair market value that would substantially reduce the amount of State funding to our locality under the composite index formula. Therefore, it is in the public interest to **encourage additional conservation easements**....

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“... all these conservation easements are killing our tax base, we are going to have to lay off teachers because of these easements. Easements don't help our community. How do **we stop conservation easements**...”

Houston....



We have a problem

VCP To The Rescue

- Approached the Coastal Policy Team
- Dragon Run SAMP/Steering Committee concerned
- Elected officials confused
- Conservation Community beginning to suffer
- Amended and re-scoped 2 CZ Grants



Rules of the Road

Open-Space Land Act- 1966

(public bodies) [10.1-1700](#) - [10.1-1705](#)

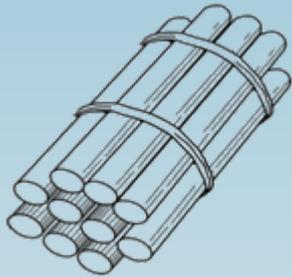
Virginia Conservation Easement Act- 1988

(non-profit) [§ 10.1-1009.](#) - [§ 10.1-1016.](#)

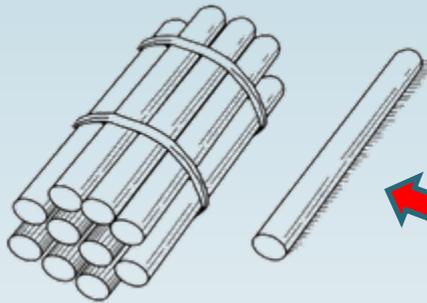
Virginia Conservation Easement Act

§ 10.1-1011

Bundle of Sticks Theory



1. The bundle of sticks represents all rights of fee simple ownership



2. With conservation easements, one stick is removed from the bundle. This represents the rights limited by the easement. This stick is given to an legible conservation easement holder.



**PROBLEM
CHILD**

What's the job of the Commissioner of Revenue?

- Responsible for maintaining real estate information 
 - Overseeing the tax relief program
 - Overseeing Land Use Program
 - Assessing all personal and business property
 - Overseeing the State income tax filing

C of R and Reporting Practices

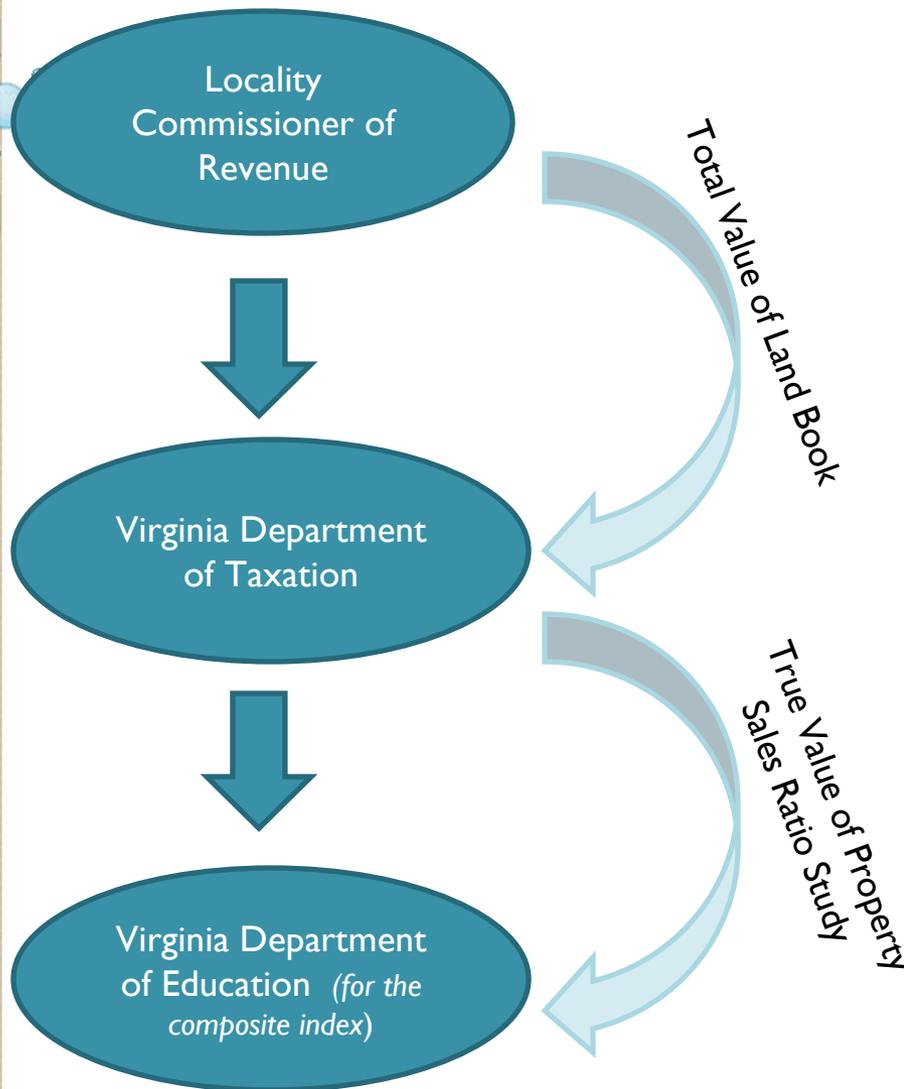
The Commissioners of Revenue have been “over reporting” the total land book value



Short changing localities state aid under the Composite Index

Composite Index Factors

- True value of real property (weighted 50 percent)
- Adjusted gross income (weighted 40 percent)
- Taxable retail sales (weighted 10 percent)



Flow of information :

Commissioner of Revenue's objective is to maintain a land book and generate a total land book value (TVLB). This value is ultimately used as a factor in the composite index

The VaTAX sends the DOE a copy of the annual sales ratio study and the TVLB.

DOE will generate the composite index which reflects a county's ability to pay education cost.



The Commissioner of Revenue

Title 58.1 – TAXATION.

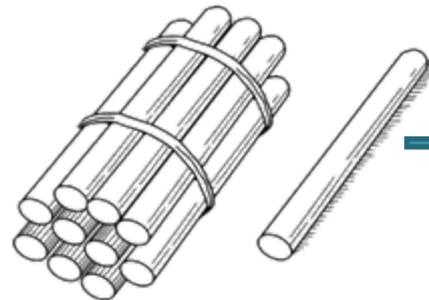
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Title 10.1 - CONSERVATION.

§ 10.1-1011

- Assessments of the fee interest in land that is subject to a perpetual conservation easement held pursuant to this chapter or the Open-Space Land Act shall reflect the **reduction in the fair market value of the land that results from the inability of the owner of the fee to use such property for uses terminated by the easement.**

(Taxable Uses)

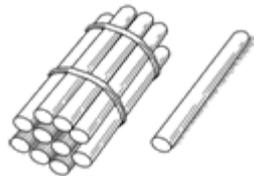


PROBLEM CHILD
(Use terminated By easement)

Why is there a problem?

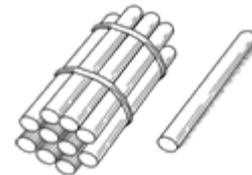
- No standard administrative mechanism to “capture” the recordation of easements
- The Commissioners of Revenue are provided no guidance on reporting or valuing of easement
- Different approaches to valuing easements depending on the locality
- Conservation Easements are outside of Virginia tax code section 58
- Two Sets of Rules

**Middle Peninsula
Land Use Localities**



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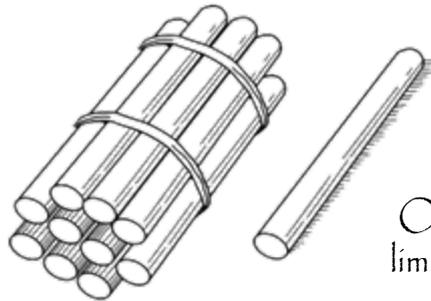
**Middle Peninsula
Non Land Use Localities**



Problem #1

Non-Land Use Localities

Commissioner of Revenue must determine the fair market value of the land less the easement



One stick is removed from the bundle. This represents the rights limited by the easement. This stick is given to an eligible conservation easement holder.

Non-Land Use Localities

Commissioner of Revenue must determine the value of easement

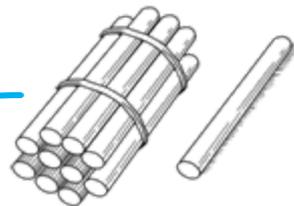
§ 10.1-1011.

B. ...shall reflect the reduction in the fair market value of the land that results from the inability of the owner of the fee to use such property for uses terminated by the easement.

To ensure that the owner of the fee is not taxed on the value of the interest of the holder of the easement, the fair market value of such land (i) shall be based only on uses of the land that are permitted under the terms of the easement and (ii) shall not include any value attributable to the uses or potential uses of the land that have been terminated by the easement

Section i

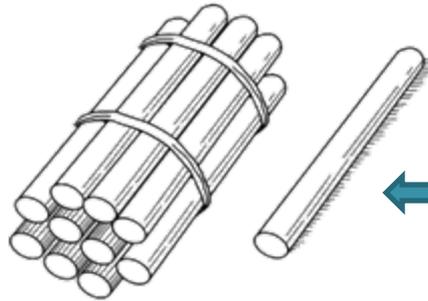
Section ii



Problem #2

Land Use Localities

Commissioner of Revenue must determine the use value for open space under the land use program and shall be assessed and taxed as such



Stick assessed value is dictated by the localities land use program

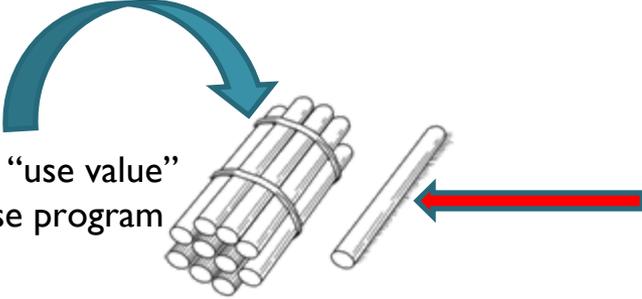


Land Use Localities

Commissioner of Revenue must determine the value of easement

§ 10.1-1011.

C. ...in any county, city or town which has provided for land use assessment and taxation of any class of land within its jurisdiction pursuant to § 58.1-3231 or § 58.1-3232, **shall be assessed and taxed at the use value for open space**, if the land otherwise qualifies for such assessment at the time the easement is dedicated. If an easement is in existence at the time the locality enacts land use assessment, the easement shall qualify for such assessment. Once the land with the easement qualifies for land use assessment, it shall continue to qualify so long as the locality has land use assessment.



Bundle of sticks are assessed at “use value” dictated by the localities land use program “voluntary tax deferral”

Stick assessed value is dictated by the localities land use program and is an inperpatuity encumbrance



What's the scale of the problem?

- When Commissioners of Revenue in many MP localities say.....

....we don't have many easements, its just a hand full at best.

Taxable Parcels of Record = individual tax bills= work for CR

	Parcels Eligible for Tax Adjustment Due to Easement	Number of Tax Exempt Parcels	Total Eased and Tax Exempt Parcels
Middlesex	30	7	37
Gloucester	58	14	72
Essex	70	8	78
King and Queen	101	76	177
King William	38	14	52
Mathews	21	82	103



Scale of the problem?

	Additional Devaluation due to easements	VaTax Sales Study Ratio	True Value of Property over reported
Middlesex	\$10,793,682	79.53%	\$13,571,837
Gloucester	\$5,587,222	85.11%	\$6,564,707
Essex	\$18,594,806	95.23%	\$19,526,206
King and Queen	\$3,115,224	70.00%	\$4,450,320
King William	\$7,394,152	89.89%	\$8,225,778
Mathews	\$197,600	62.56%	\$315,857



Conversion to State Aide

- For example
 - A MP locality over reported \$18,000,000 in land book value attributable to easements
 - Appears the net gain to the composite index is estimated at \$75,000
 - Better way for the Commissioners of Revenue receive and report conservation lands

Example

TLBV

Composite
Index Score

State
Aid K-12

Before

\$1.35 B

.4071

\$4,729,951

After

\$1.32B

.4034

\$4,729,951

+ 75,000

\$4,804,951



Outcomes

- Easements lower land value and can help lower the composite index.
- **Schools can receive more state aid funding because of easements.**
- Middle Peninsula Commissioners of Revenue have changed valuation practices because of this study
- During re-assessment, ask how easements will be addressed and valued?
- Need a good paper trail between re-assessments

QUESTIONS?

Contact

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