

Frequently Asked Questions:

Question:

How can a Maryland Agricultural Land Preservation Foundation (MALPF) easement be terminated?

Answer:

MALPF easements are intended to be perpetual. However, under State law, a landowner may request that the easement be reviewed for possible termination at any time after 25 years from the date of the easement's purchase. The easement may be terminated in accordance with the process set out in the law if MALPF determines that profitable farming is not feasible on the subject farm. In making its decision, MALPF is required to conduct an inquiry which includes a site visit, a public hearing and the opinion of an expert as to the future feasibility of profitable farming on the land. The inquiry shall be concluded and a decision reached by the Foundation within 180 days after the request for termination (Agriculture Article, § 2-514, Annotated Code of Maryland).

As stated in the law, in addition to MALPF approval, an easement may be terminated only with the approval of the county governing body. In deciding whether to approve the request for termination, the county governing body shall receive the recommendation of the county Agricultural Preservation Advisory Board (APAB).

Recently, a landowner of three separate farms in Howard County filed a request with MALPF to terminate the easement on each farm in accordance with the provisions of the State law.

Question:

Which properties are being considered for MALPF easement termination?

Answer:

- Mullinix Brothers Partnership, "Murray Farm", 166 acres in Mount Airy, MD 21771
- Mark, Michael and Stephen Mullinix, "Home Farm", 110 acres in Dayton, MD 21036
- Mullinix Brothers Partnership, "Howard Farm", 200 acres in Dayton, MD 21036

Question:

Who determines the termination of the easement and what is the process?

Answer:

MALPF makes the ultimate determination of whether the easement should be terminated. A summary of the process is outlined in the flowchart prepared by MALPF.

Question:

How is the feasibility of "profitable farming" determined?

Answer:

MALPF has hired an expert who will be looking at many different factors such as: the productive capacity of the land, the effect of any nonagricultural development contiguous to the land, an assessment of the extent to which markets exist for any agricultural products that can be produced on the land, and a determination of the profitability of nearby farms. (COMAR 15.15.05.04)

Question:

What is the Howard County Agricultural Preservation Advisory Board (APAB) responsible for in this MALPF termination process?

Answer:

In accordance with COMAR 15.15.05.05, the APAB reviews the termination applications and makes a recommendation to the County governing body based on current land regulations, local comprehensive planning and the local priorities for the preservation of agricultural land. The APAB will consider each easement termination request pursuant to the following criteria, as adopted by the County Executive in 2007:

- The effect of termination on County preservation policies and actions, including public investment by the County and State
- The effect of termination on County growth management policies and actions
- The effect of termination on County policies and actions supporting agricultural economic development
- The extent of vicinal protected land and effect of termination on properties that are protected and/or in agricultural land use
- The evaluation of the subject property to determine its desirability for acquisition as if it were currently being considered for easement purchase

Question:

Will there be an opportunity for public comment?

Answer:

There will be several public meetings regarding the Mullinix termination requests in the next couple of months.

MALPF will hold a public hearing on:

Date: Thursday, November 15, 2012
Time: 6:00 pm
Location: Howard County Fairgrounds- Dining Hall
2210 Fairgrounds Road
West Friendship, Maryland 21794

All interested persons may testify that evening, or send written testimony by December 15, 2012 to MALPF at the following address:

Maryland Agricultural Land Preservation Foundation
attn: Carol S. West, Executive Director
50 Harry S. Truman Parkway
Annapolis, Maryland 21401

For additional information about the MALPF hearing please call Carol West at 410-841-5860.

The Howard County Agricultural Preservation Advisory Board (APAB) will hold a public meeting on:

Date: Monday, November 26, 2012
Time: 7:30 pm
Location: Howard County Fairgrounds - Fair Office building
2210 Fairgrounds Road
West Friendship, Maryland 21794

All interested person may attend the APAB meeting, but formal testimony will not be taken.

For additional information about the APAB meeting, please contact Joy Levy at 410-313-4382.

At this time, it is anticipated that the County Council of Howard County will hold a hearing on the proposed decision of the County in January. The County's decision is required no later than 90 days after MALPF's public hearing.

Question:

How many MALPF easements in Howard County are eligible to request termination?

Answer:

There are 29 MALPF easements in Howard County, comprising 3,950 acres, which are potentially eligible to request termination.

Question:

Have any other landowners successfully petitioned to be released from their easements?

Answer:

No. These three pending termination applications are the first that have been received in the state of Maryland.

Question:

Are the application materials submitted for easement termination available to the public?

Answer:

The applications are public information. They may be reviewed in the County's office at the Department of Planning and Zoning in the George Howard Building by appointment during the hours of 10am and 3pm, Monday through Friday. Copies of the applications may be requested and will be provided at the cost of \$0.25 per black & white page and \$0.50 per colored page.