

ANNUAL REPORT FISCAL YEAR 2018



**The Maryland
Agricultural Land
Preservation
Foundation**

A Message from the Executive Director



Dear Stakeholders,

I am very pleased and honored to introduce myself as the new Executive Director of the Maryland Agricultural Land Preservation Foundation (MALPF). Upon former Executive Director Carol West's retirement, I assumed this new position in July 2018. Previously serving as an administrator for MALPF since 2011 and with over 18 years of experience in land conservation, I am confident that with the help from our dedicated staff, MALPF will continue to succeed and remain a national leader in agricultural land preservation.

This past year has been exceptionally busy for the program. We are working towards completing the FY 2017/2018 application cycle, with only a handful of easement offers left to settle. In July 2018, a total of 189 applications were accepted and submitted to the Department of General Services to be appraised for the FY 2019 application cycle. As of the end of FY 2018 we have preserved 2,302 properties that represent approximately 312,800 acres at a public investment of over \$728 million.

2018 also brought incredible news for MALPF, as for the first time in 10 years full funding for the program was restored! MALPF is now, once again, able to return to single-year application cycles beginning in fiscal year 2019. MALPF staff has worked diligently with our sister agencies and county partners to prepare for the changes necessary to move back to an annual application cycle. We anticipate funding levels to remain steady, enabling MALPF to sustain single-year application cycles for the foreseeable future.

With the return to an annual application cycle, the MALPF program will be able to increase the rate at which we are able to protect Maryland's agricultural lands, and I look forward to being able to report on MALPF's accomplishments for years to come.

Sincerely,

Michelle Cable

MICHELLE CABLE
MALPF, Executive Director

ABOUT MALPF

What is MALPF?

MALPF is an acronym that stands for the Maryland Agricultural Land Preservation Foundation. The program has been in existence since 1977. It is one of the most successful programs of its kind in the country.

MALPF's primary purpose is to preserve sufficient agricultural land to maintain a viable local base of food and fiber production for the present and future citizens of Maryland. The program purchases perpetual agricultural conservation easements on eligible farmland throughout the state. In other words, the program pays landowners to continue what they have done for years, decades, or sometimes a century or more - continue to farm their land.

Below are the eligibility criteria and procedures for the sale of an easement.

SIZE: The minimum easement size is 50 contiguous acres. If a property is less than 50 acres, a landowner may still be eligible to apply and should visit our website to review Fact Sheet 12, "Small Properties in the Agricultural Land Preservation Program," or confer with the local program administrator.

If a property is contiguous to an existing easement, the landowner may apply to sell an easement regardless of the acreage.

PRODUCTIVITY: An easement is purchased on land that is either currently being used for producing food or fiber or has the capability to do so. Woodland management and harvesting operations are eligible to join this program. The productivity of the soil as measured by the USDA's Soil Conservation Service Land Classification System is a major criterion. Soil requirements for the property to qualify to participate in the program are:

- At least 50% of the land is classified as Class I, II or III soils; or
- If the land is wooded, 50% of the land is classified as Woodland Group 1 or 2 soils; or
- If the reason the land could not meet the above conditions was because of flood-plain or wetland soils, those areas could be excluded as a percentage of land; or
- If there is an insufficient percentage of Class I, II or III soils alone and there is an insufficient percentage of Woodland Groups 1 and 2 soils alone, the land would qualify if the combination of the two exceeded 60%; or
- Land with lower soil capabilities may qualify under certain conditions.

LOCATION: Land that lies within the boundaries of a 10-year water and sewer service area plan is generally not eligible unless it has extraordinary productive capability and is of significant size.

DEVELOPMENT RIGHTS: A property must have at least one unused development right associated with the property to sell an easement.

LOCAL CRITERIA: The criteria listed above are the minimum eligibility standards set by the state. The program is administered jointly by county and state. The county may impose criteria which could be in addition to or more stringent than the state criteria.

2018 CERTIFICATION REPORT

Report on the Program for Certification of Local Agricultural Land Preservation Programs for FY 2018

The program for Certification of Local Agricultural Land Preservation Programs (Certification Program) was created by the Maryland General Assembly in 1990 and is jointly administered by the Maryland Department of Planning and the Maryland Agricultural Land Preservation Foundation.

The goals of the Certification Program are the following:

- **Preserving the important role agriculture plays in maintaining the state's high environmental quality;**
- **Encouraging development of county agricultural preservation programs which complement MALPF's preservation efforts; and**
- **Employing agricultural land preservation as a tool to manage growth.**

Counties able to demonstrate that they have an effective program to preserve productive farmland and forests are eligible to participate in the Certification Program. Local preservation programs consist of a combination of preservation tools such as low-density agricultural zoning, purchase or transfer of development rights programs, right-to-farm policies, support for agricultural businesses, the designation of agriculture as the best use of certain lands, etc.

To qualify for and retain certified status, counties are required to designate a Priority Preservation Area (PPA). Counties concentrate their preservation efforts and program funding into their PPAs in order to preserve large contiguous blocks of agricultural and forested land.

Participation in the Certification Program by interested counties is voluntary. Certified counties enjoy the benefit of retaining 75% of their locally generated agricultural transfer tax revenue, while non-certified counties retain 33%. All retained revenue must be spent or encumbered for qualifying land preservation expenditures within three years of collection, or those collected funds revert to MALPF. The increase in participating counties' share of the agricultural land transfer tax helps to support and enhance their preservation programs in ways that best meet local goals and needs.

As of June 30, 2018, 16 counties are certified: Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Cecil, Frederick, Harford, Kent, Montgomery, Prince George's, Queen Anne's, St. Mary's, Talbot, Washington, and Worcester.

2018 LEGISLATIVE UPDATE

HB1351 – Agriculture – Easements – Special Occasion Events

The passage of this legislation added a permitted use to those uses allowable on MALPF-eased properties, potentially allowing landowners to generate supplemental income to augment their agricultural operations. Subject to local planning and zoning requirements, and local and MALPF approval, if a property has been subject to a MALPF easement for a minimum of 10 years, the landowner may request that up to 2.0 acres of the land be used to hold special occasion events for commercial purposes. The request shall include the location of the special events area. If approved, the area shall be identified and delineated on a map prepared by a licensed surveyor. Events may be held within the approved area only in structures existing at the time of approval of the request, or in temporary structures such as canopies or tents.

SB1140 – Maryland Agricultural Land Preservation Foundation – Definition of a Child

This legislation clarifies and extends the designation of a landowner's child to include "...a biological child, an adopted child or a stepchild; and (2) does not include a foster child, a grandchild, or a descendant more remote than a grandchild."

SB571/HB1229 – Maryland Agricultural Land Preservation Foundation – Use of Land – Signs and Outdoor Advertising Displays

Since the program's inception, the terms of MALPF's deeds of easement have always limited signage in terms of size and purpose. Over time, the signage provisions have changed, permitting landowners more latitude in allowable outdoor advertising displays. This legislation provides a retroactive, affirmative right for all landowners of MALPF-eased properties to display signage in the same manner. The size restriction has not changed.

HB43 – Income Tax – Subtraction Modification – Perpetual Conservation Easements

This legislation allows for the subtraction of the first \$50,000 of compensation received for a perpetual conservation easement during the taxable year in which the exchange for the sale of the easement occurred. Landowners who have questions about this new law should contact an accountant.

HB198 – Inheritance Tax – Perpetual Conservation Easement – Arming Purposes – Exemption

This legislation adds a niece or nephew of a decedent to be exempted from inheritance tax for real property subject to a perpetual conservation easement that passes to her or him from the decedent.

SB885 – Maryland Agricultural Land Preservation Foundation – Condemnation of Land Under Easement

This legislation only applies to MALPF easements acquired by the Foundation by purchase or donation after July 1, 2018. The legislation concerns compensation to MALPF for condemned easement property insofar as it may affect MALPF from partnering with other preservation programs, resulting in the loss of potential additional funding that would stretch the program's dollars and ability to acquire more acreage. Prior to the passage of this law, MALPF's reimbursement on condemnation requirements were inconsistent with the requirements of many other conservation programs. Per statute, MALPF required reimbursement for condemned, MALPF-eased property on a per-acre basis in an amount equal to the amount paid for the easement at the time the easement was acquired. Many other conservation and preservation programs require reimbursement for condemned properties on a per-acre basis in an amount equal to current fair market value. This inconsistency has prevented MALPF's collaboration with these other programs, resulting in a loss of potential funding. The new law has changed the reimbursement requirement to reflect that MALPF easements acquired on or after July 1, 2018, will receive compensation for condemned MALPF-eased property in an amount equal to current fair market value. This law is not retroactive; it does not change the compensation for condemned property on any easements acquired by MALPF prior to July 1, 2018.

HB620 – County Agricultural Land Preservation Programs – Recertification and Remittance of Unexpended Funds – Extensions

This new law clarifies that a certified county seeking to renew its certification is a "recertification" of its current (certified) status, and not a new certification request. This distinction allows for expanding the period for which a recertification is effective from three years to five years, bringing the recertification timeline in sync with counties' comprehensive plan updates, which generally occur every five or 10 years statewide.

The legislation also extends the period of time during which counties may spend or commit to spend their retained, collected agricultural transfer tax revenue. By law, certified counties retain 75% of the collected tax, and non-certified counties retain 33%. The retained tax revenue is required to be spent or committed to be spent on qualifying land preservation expenditures. If the retained tax revenue is not spent or committed within the prescribed time period, the funds are remitted to the State Comptroller, and placed in the Maryland Agricultural Land Preservation Fund. With the passage of this law, the time period in which counties must spend or commit to spend the retained tax revenue has been extended from three years to six years. Expanding the retention period not only allows counties more time to spend or commit the retained tax revenue; it also provides counties with the ability to preserve more agricultural acres, and to leverage this revenue stream for use in other qualifying preservation programs.

2018 REGULATORY REVIEW

Discussed below are changes in policy and regulation regarding documents that impact MALPF easement properties. Such documents constitute “overlays” to the existing MALPF deed of easement. The terms of the overlay will be memorialized by recording the overlay document in the land records of the county in which the deed of easement is recorded.

Please contact your County Program Administrator or the Foundation if you are considering granting an overlay easement of any kind.

Overlay Easements and Rights-of-Way:

During fiscal year 2018, the Guidelines for Granting Overlay Easements and Rights-of-Way proceeded through the regulatory process and can now be found at COMAR 15.15.16.01 et seq. After a farm is protected with an agricultural preservation easement held by the Foundation, landowners may not grant an easement, right-of-way, or other restriction on that land without the Foundation’s approval, which may be given in the following situations:

- A. If it is to service a lot released from the preservation easement restrictions under Agriculture Article, §2-513, Annotated Code of Maryland (family lots);
- B. If it is to service a lot or land permitted to be withheld from the agricultural preservation easement at the time of sale of the agricultural preservation easement to the Foundation;
- C. If it is to service an adjacent farm, provided however, that its use is restricted to the movement of farm equipment or other items associated with farming;
- D. If it is a forest overlay easement that meets the criteria described in COMAR 15.15.13.01 et seq.;
- E. If the overlay easement documents a use existing at the time the agricultural preservation easement was sold to the Foundation;
- F. If the overlay easement serves telephone, television, gas, or other similar utility lines (but not access) to service the easement property or lots created under §A or B in this regulation;
- G. If the overlay easement enhances a public road or bridge for the public health, safety, or welfare, where a minimal amount of land is required for such project, and the grantee of the proposed overlay easement has condemning authority;
- H. If the overlay easement is used to install a utility easement for electricity, telephone, cable, oil, gas, or similar utility and the grantee of the proposed overlay easement has condemning authority; or

- I. If the overlay easement is for another purpose not named in this regulation, and if failure to grant approval as determined by the Foundation would result in significant detrimental impact to the conservation values on an adjacent property. For purposes of this section, "conservation values" means critical natural habitat for native plant and wildlife species including, but not limited, to forests, riparian forested areas, wetlands, and greenways to buffer the Chesapeake Bay and its tributaries from pollution runoff.

Forest Easement Overlays:

Changes to the Guidelines for Forest Easement Overlays also proceeded through the regulatory process in fiscal year 2018 and can be found at COMAR 15.15.13.01 et seq. The main change gives the Foundation the authority to approve a larger size of the overlay easement area, in certain circumstances.

Water Resource Easement Overlays:

MALPF's fiscal year 2017 Annual Report reported that proposed regulation entitled "Guidelines for Wetland Easement Overlays and Stream and Streamside Easement Overlays" was adopted as Foundation policy while simultaneously being reviewed by the Governor's Office for codification in COMAR. After the proposed regulations were submitted to the Governor's Office, MALPF received several inquiries and requests regarding potential stream and/or wetland mitigation projects on MALPF-eased properties. Due to these inquiries, it became clear to the Foundation that the proposed regulation would not adequately serve MALPF landowners in accomplishing their water resource goals. To better serve MALPF landowners, the Foundation pulled the proposed regulation from the Governor's Office to revise the draft to provide a clearer and more detailed structure that would address a wider range of water resource goals without compromising the terms of MALPF easements. The updated draft, now called "Water Resource Easement Overlays," is currently in committee and the Foundation anticipates the updated policy to be finalized early in 2019.

TOTAL EASEMENTS ACQUIRED

COUNTY	TOTAL EASEMENTS ACQUIRED			PERCENT OF TOTAL
	NUMBER	ACREAGE	COST	
Allegany	12	1590	\$3,354,416	0.51%
Anne Arundel	44	5,519	\$22,817,783	1.76%
Baltimore	231	23,994	\$84,128,334	7.67%
Calvert	35	4,715	\$12,267,678	1.51%
Caroline	224	32,731	\$33,723,830	10.46%
Carroll	371	43,888	\$94,129,704	14.03%
Cecil	102	15,225	\$37,294,437	4.87%
Charles	60	9,060	\$34,217,495	2.90%
Dorchester	91	14,476	\$18,998,336	4.63%
Frederick	143	21,755	\$52,060,357	6.96%
Garrett	57	6,953	\$9,662,931	2.22%
Harford	136	14,455	\$43,466,600	4.62%
Howard	32	4,059	\$7,733,591	1.30%
Kent	107	20,333	\$43,635,073	6.50%
Montgomery	31	4,754	\$18,465,408	1.52%
Prince George's	18	1,651	\$14,286,706	0.53%
Queen Anne's	174	29,781	\$51,335,961	9.52%
St. Mary's	118	11,947	\$48,714,957	3.82%
Somerset	50	5,728	\$8,336,419	1.83%
Talbot	78	12,082	\$30,168,083	3.86%
Washington	82	13,474	\$34,823,853	4.31%
Wicomico	59	7,363	\$12,986,708	2.35%
Worcester	47	7,254	\$12,270,389	2.32%
TOTALS	2,302	312,787	\$728,879,049	100.00%

AS OF JUNE 30, 2018

EASEMENT SETTLEMENTS - FY18

COUNTY	NUMBER OF EASEMENTS	TOTAL NUMBER OF ACRES	ACQUISITION COST		AVERAGE FARM SIZE IN ACRES
			AVERAGE PER ACRE	TOTAL	
Allegany	3	337	\$1,758	\$592,500	112
Anne Arundel	2	241	\$6,243	\$1,504,500	121
Baltimore	3	193	\$6,577	\$1,269,404	64
Calvert	0				
Caroline	1	195	\$1,984	\$386,893	195
Carroll	5	640	\$4,884	\$3,125,902	128
Cecil	2	486	\$3,063	\$1,488,492	243
Charles	6	642	\$4,299	\$2,759,920	107
Dorchester	3	420	\$3,288	\$1,381,045	140
Frederick	7	1,043	\$4,505	\$4,698,502	149
Garrett	0				
Harford	0				
Howard	0				
Kent	7	1,223	\$3,521	\$4,306,634	175
Montgomery	0				
Prince George's	0				
Queen Anne's	5	697	\$3,511	\$2,447,083	139
St. Mary's	2	177	\$6,157	\$1,089,722	89
Somerset	4	207	\$4,066	\$841,577	52
Talbot	2	238	\$4,524	\$1,076,640	119
Washington	2	411	\$3,905	\$1,605,000	206
Wicomico	1	153	\$4,721	\$722,250	153
Worcester	1	99	\$2,677	\$265,020	99
TOTALS	56	7,402	\$3,994	\$29,561,084	132

AS OF JUNE 30, 2018

EASEMENT ACQUISITION COSTS - FY18

FISCAL YEAR	NO. OF FARMS	ACQUISITION COST	ACRES
FY 1977 - 2006	1,708	\$342,578,700	236,259
FY 2007	70	\$40,297,919	9,592
FY 2008	106	\$78,270,208	13,810
FY 2009	79	\$68,588,962	9,787
FY 2010	68	\$52,814,641	8,816
FY 2011	14	\$6,783,740	1,527
FY 2012	41	\$21,217,570	4,692
FY 2013	16	\$7,925,597	1,773
FY 2014	52	\$26,302,733	6,117
FY 2015	33	\$19,569,931	4,324
FY 2016	31	\$17,719,957	4,219
FY 2017*	28	\$17,062,423	4,481
FY 2018	56	\$29,561,084	7,402

AS OF JUNE 30, 2018

*Corrected numbers from FY 2017 Annual Report

MALPF BOARD & STAFF

Appointed Board Members:

Michael Calkins, Chair, Young Farmer Representative
William Allen, Vice Chair, Member At-Large
Tom Mason, Maryland Farm Bureau Representative*
J. Bruce Yerkes, Maryland Grange Representative
Taylor B. Huffman, MD Agricultural Commission Representative
Bernard L. Jones, Sr., Member At-Large
Catherine Cosgrove, Member At-Large
Ralph Robertson, Member At-Large
Joseph W. Wood, Member At-Large

Ex-Officio Board Members

Honorable Nancy K. Kopp, State Treasurer
Honorable Peter Franchot, State Comptroller
Honorable Joseph Bartenfelder, Secretary, Maryland Department of Agriculture
Honorable Robert McCord, Secretary, Maryland Department of Planning

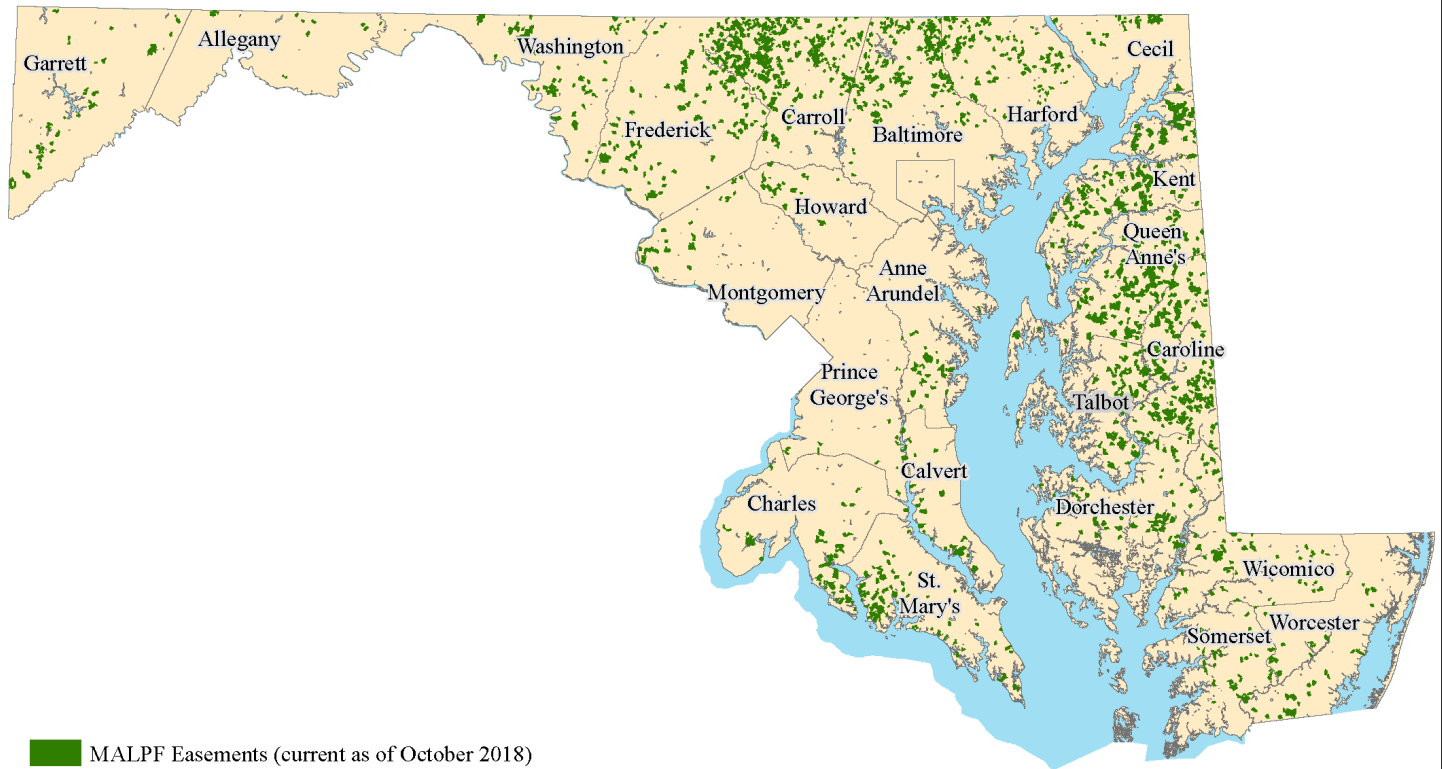
Foundation Staff

Michelle Cable, Executive Director
Diane Chasse, Administrator
Chana Turner, Administrator
Kim Hoxter, Administrative Officer
Amanda C. Wilson, Administrative Specialist
Jonathan Gott, Office Secretary

***Tom Mason served as the Maryland Farm Bureau representative through FY 2018, but the position is currently open as of the end of the 2018 calendar year.**

MALPF STATE MAP

Maryland Agricultural Land Preservation Fund Easements



MARYLAND DEPARTMENT OF
PLANNING

0 15 30 60 Miles



COUNTY PROGRAMS

ALLEGANY

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Chair: vacant

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Lt. Governor Boyd K. Rutherford
Secretary Joseph Bartenfelder
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