January 17, 2018

Via electronic communication to stevecawood43@gmail.com and kkingburnett@gmail.com

Study Committee on Amendments to the Uniform Conservation Easement Act
Stephen Cawood, Chair
K. King Burnett, Vice Chair
Uniform Law Commission
111 N. Wabash Ave., Suite 1010
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Dear Mr. Cawood and Mr. Burnett:

Thank you for a productive conference call of the Uniform Law Committee’s (ULC’s) Study Committee (Study Committee) deliberation of possible changes to the Uniform Conservation Easement Act (UCEA) on December 11, 2017. We appreciated the opportunity to participate in the ULC’s conference calls, to have an informed review and discussion of the UCEA, to identify opportunities to further strengthen conservation easements and to express the land trust community’s concern over whether changes are appropriate at this time. We also thank you for the thoughtful approach that you and the Study Committee members adopted throughout this process, especially in seeking comments directly from land trusts.

The committee provided a great public service in revisiting the UCEA to ensure it is effective and working as intended. Their public review supports the conclusion that the UCEA continues to provide a solid, widely acceptable platform from which states can tailor their own conservation easement enabling acts. The visionary success of the UCEA is due in large part to the ULC’s prescient drafting to acknowledge the effect of other state real property laws and its adherence to the purpose of sweeping aside common law impediments that obstruct the validity and enforceability of perpetual conservation easements.

This success is reflected by its adoption, in whole or in part, by approximately 28 states. While the UCEA does not impose any regulatory regime, through its framework, it allows systems of public and private oversight to develop, including for example, IRS regulations, Land Trust Standards and Practices and accreditation, Terrafirma and various state and funder requirements.

The ULC may justifiably feel great pride in the fact that, in the materials distributed to the Study Committee and observers and during the three conference calls last year, no party
identified any deficiency or omission in the current text of the UCEA that is badly in need of correction or revision. Although the Background Report identifies numerous variations of approach, these illustrate that states prefer making changes or adding provisions that are best suited to their own localities.

The Study Committee should be proud of the work it has done to examine and draw attention to the important set of issues surrounding the UCEA. The Background Report, for example, which includes an informative and useful overview of the history of UCEA and the current state of conservation easement law across the country, will provide an invaluable resource going forward for individual states to assess approaches taken by other states. Because of your efforts, the conservation community and other stakeholders will be better equipped to improve the durability of conservation easements on a state-by-state basis and to continue building off of the great success of the UCEA around the country. The Alliance commends the Study Committee for its distinguished contribution to conservation law and practice.

The Alliance applauds the Study Committee recommendation to further promote our collective knowledge by archiving, developing and refining the repository of educational information complementing the Act and providing access to interested constituents endeavoring to update or amend their conservation easement enabling acts. As Mr. Burnett pointed out, the UCEA is a novel act, for a novel area of law, which is rapidly evolving in different ways in different states, and therefore, the UCEA needs a proportionately novel level of educational support to progress in tandem with the Act through time.

Thank you for your consideration of the land trust community’s comments and your management of this robust process.

Very truly yours,

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