



Implementation of a Land Trust Model in Israel: Purchase of Land or Land Rights in order to Preserve Open Spaces

*Abstract of a feasibility study prepared for
the Open Landscape Institute (OLI), Israel*

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OLI is a professional institute operating in the framework of the Society for the Protection of Nature in Israel (**SPNI**) – Israel's leading environmental NGO. **OLI** surveys and evaluates natural and cultural resources, and develops policy recommendations and tools for open space preservation in Israel.

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Abstract

The protection of rapidly disappearing open spaces has emerged as a top priority on Israel's environmental agenda. Yet despite the impressive growth of environmental awareness, urban sprawl has not been sufficiently checked. This has largely been due to the scarcity of land for human use in a small country such as Israel, the declining profitability of agriculture, and the strong development lobby at decision-making levels in Israel.

Nevertheless, there have been remarkable achievements in identifying open spaces worthy of preservation, in zoning them as open spaces (especially at the national and district levels), in declaring new nature reserves and national parks, in intensive forestation, and in making many places suitable for outdoor recreation. Furthermore, in 1992, the Society for the Protection of Nature in Israel created Deshe - The Open Landscape Institute (OLI) for the purpose of developing policy and tools to ensure the preservation of ecologically sensitive open spaces. OLI is the only environmental NGO in Israel dedicated solely to issues of open space protection.

Efforts to protect open spaces in Israel are countered by a number of challenges. The first is protecting open areas that are privately owned. Although most of the land in Israel is publicly owned, there are some high-value open areas that are privately owned. For example, large tracts of land in the Mount Carmel National Park are privately owned, creating continuous tension between the lot owners and the Israel Nature & National Parks Protection Authority. The second area of difficulty relates to protecting farmland that was leased by the state to agricultural settlements. The global profitability decline in agriculture has led many farmers to seek alternative sources of income in order to make a living. One of the approaches pursued by farmers has been to lobby for the use of farmland for non-agricultural purposes while awarding the agricultural lessees portions of the revenue from leasing the land for the new non-agricultural use. These pressures constitute a serious threat to preserving farmland as open space in Israel. The third source of difficulty is protecting invaluable open areas that were historically zoned for development but were never developed. A good example is one of the last natural beaches of the Sea of Galilee (Lake Kinneret) that was zoned for hotel and resort use more than 20 years ago but was never developed. This priceless open space was recently offered by the governmental Israel Land Administration in an open bidding process. All of these difficulties could have



been easily overcome by the government. Unfortunately, however, governmental agencies have renounced responsibility for protecting these open areas.

These difficulties have catalyzed the search for new tools to achieve the goal of open space protection in Israel. One of the most important tools used in the United States and in some European states for preserving open space is the purchase of land or land rights. This approach has never been seriously considered in Israel. The aim of this document, therefore, is to introduce this tool to relevant stakeholders in Israel and to explore the possibility of using such an approach in Israel.

Beginning in the 1980s, Land Trusts or conservancies, have been engaged in protecting open areas in the US, by purchasing land or land rights. Unlike land advocacy organizations, that are also active in Israel, land trusts protect land by owning it or by obtaining a conservation easement. A conservation easement is a voluntary agreement between a landowner and a land trust or government agency that permanently limits uses of the land in order to protect its conservation values. The conservation easement is sold or donated by the land owner. Land trusts solely engage in buying land or land rights and protecting land by direct action rather than in land advocacy activities. The land trust movement in the US is based on the premise that one cannot rely on the good will of the government to protect open areas and that private actors should play a role in protecting land.

Although some US land trusts are active at the international and national levels, most land trusts in the US, more than 1,500 of them, are active at the regional and local levels. According to statistics collected by the Land Trust Alliance, private land trusts at the local and regional levels protected approximately 9.5 million acres in 2003. An additional 25 million acres were protected by non-governmental land trusts at the state level. The main achievement of American land trusts has been their success in protecting immense quantities of open areas. An additional achievement is the huge amount of resources they have raised for land preservation.

This research paper describes in detail different aspects of land trust activities in the US and examines the possibility of implementing a similar model in Israel, including the necessity for legislative amendments. The paper finds that there are three important issues related to differences between the US and Israel concerning the implementation of the land trust model in Israel.



One basic difference concerns land ownership. While in the US the lion's share of the country's land is privately owned, in Israel most of the land is publicly owned. Theoretically, that leaves a much narrower space for land trusts to act. However, the careful examination presented in the research shows that it would be possible for a land trust in Israel to protect publicly owned land as well. A land trust would be able to purchase a land lease of publicly owned land as well as obtain a conservation easement from a lessee who leased the land from the state for agricultural use.

It is important to emphasize that protecting publicly owned open areas in Israel such as farmland is as important as protecting privately owned land. However, while US federal, state and local administrations and agencies tend to embrace the concept of purchasing land and land rights for preservation and are involved in implementation, this is not the situation in Israel. Unfortunately, in some cases, the Israeli government actually provides incentives that promote urban sprawl. Therefore, although the Israeli arena is somewhat narrower and more complicated, it is much more in need of land trust activity.

A second issue concerns the legal use of the conservation easement tool, never before used in Israel. This research thoroughly examined the legal aspects of purchasing property development rights and donating them to the land trust and found that the conservation easement tool is unequivocally valid and useable according to current Israeli property law. That means that if a land trust will be established it will be able to obtain land conservation easements, from the land owner or from a long term lessee, by purchase or by donation, without any need of legislative amendment.

Finally, one of the most important elements that contribute to the success of land trusts in the US is the system of generous tax incentives. A US citizen who donates land or conservation easement to a land trust obtains significant tax benefits for charitable donation. In Israel a similar system of tax benefits for charitable donations exists. A donor in Israel is entitled to a tax credit of 31%-35% of the amount contributed, up to a ceiling of approximately \$500,000 per year, subject to certain limitations. The Israeli tax law is identical to the US law allowing contributions of property, as land or land rights, to a qualified tax-exempt organization. The conclusion is that the Israeli tax system entitles generous tax benefit for charitable donations and is almost as generous in this regard as the tax system in the US. Therefore, it is argued that the existing tax benefits are sufficient for initiating land trust activity in Israel. Once a land trust is established, it will be able to



advocate for raising the tax benefits for charitable donations of land or land rights to a land trust.

In order to carry out land- or land-rights purchase in Israel this study proposes a few alternative institutional structures:

- A. Founding a new land trust, separate from the existing environmental advocacy NGOs.
- B. Founding a new environmental NGO for the protection of open areas that will combine advocacy and purchase of land and land rights.
- C. Initiating purchase activity within an existing environmental advocacy NGO.
- D. Founding a dedicated land trust within the Jewish National Fund (JNF).

This paper summarizes the pros and cons of the different alternatives and concludes that the best alternative is the establishment of the first Israeli land trust, based on the American model, that will be independent of existing environmental advocacy NGOs. The proposed land trust will concentrate solely on purchasing land and land rights for land conservation, and will not deal with any land advocacy activity. Partnering with existing environmental organizations will allow their representation on the new land trust's board of directors. This paper recommends that the new land trust work closely and in full cooperation with governmental environmental agencies and the existing environmental NGOs and rely on their databases to identify the most urgent needs for land protection. It is also suggested that the proposed land trust will be assisted by the Israel Nature & National Parks Protection Authority in stewardship of the land it will protect. The proposed land trust should be a small and flexible organization employing mainly highly qualified tax and law experts that will be attracted by the unique opportunity to help protect Israel's environment.

The study concludes with the hope that it will help Israel's environmental community to develop this model and transform it into a reality.

