

# CONSERVATION EASEMENTS

A PRIMER





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**DEAN IS THE MOST RESPONSIBLE AND HONEST REALTOR® THAT I HAVE EVER WORKED WITH...**

**He worked very hard on my behalf. This transaction took seven years with legal battles and many difficult partners.**

**I highly recommend him and would stand up and be counted for him, like he did for me.”**

**DR. MEREDITH L. SCOTT**



# INTRODUCTION

This book is written to give insight and answers to your questions about Florida conservation easements and other landowner rights.

Created and compiled by Dean Saunders, this booklet brings together his extensive knowledge and experience on conservation easements. As an Accredited Land Consultant (ALC) and a member of the Florida Legislature from 1992 to 1996, Dean spearheaded the action to establish the Green Swamp Land Authority. As a result of his efforts, the very first Florida state agency was created to purchase development rights from landowners.

His work was instrumental in the successful passing of the law requiring Florida state agencies to purchase a specific number of conservation easements each and every year.

Dean's knowledge is based upon years of working with conservation easements in both the legislature and in real estate. His knowledge comes together in this booklet to outline for you the important information you need to know about selling your land development rights or a conservation easement.

Today, not only is the number of conservation easements being bought by the federal, state, and local governments growing, but the demand from conservation organizations is too.

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**DEAN SAUNDERS AND  
JIMMIE ALLEN HELPED US  
FIGURE OUT THE BEST WAY  
TO PRESERVE OUR RANCH  
FROM DEVELOPMENT.**

They guided us through the complexities of the bureaucracy...and ultimately helped us

get a price we thought was very fair. I'm an experienced business person, but their help was invaluable.

**ANDY BARNES**  
*Former Editor and Publisher  
St. Pete Times*

**The pathway to  
conservation  
easements  
is not always a  
straight line but,  
more often than not,  
is worth the trip.**



# IF YOU ARE CONSIDERING A CONSERVATION EASEMENT

When you purchase land, you also purchase a bundle of rights. These rights include, among others, the right to develop and the right to minerals and water. Collectively this bundle of rights is called “fee title.”

As a landowner, you also have the ability to sell some of these rights while maintaining ownership to the land. This is generally known as selling a “less-than-fee” interest. A conservation easement is a form of “less-than-fee” interest. For the sake of this booklet, we are using the term conservation easement.

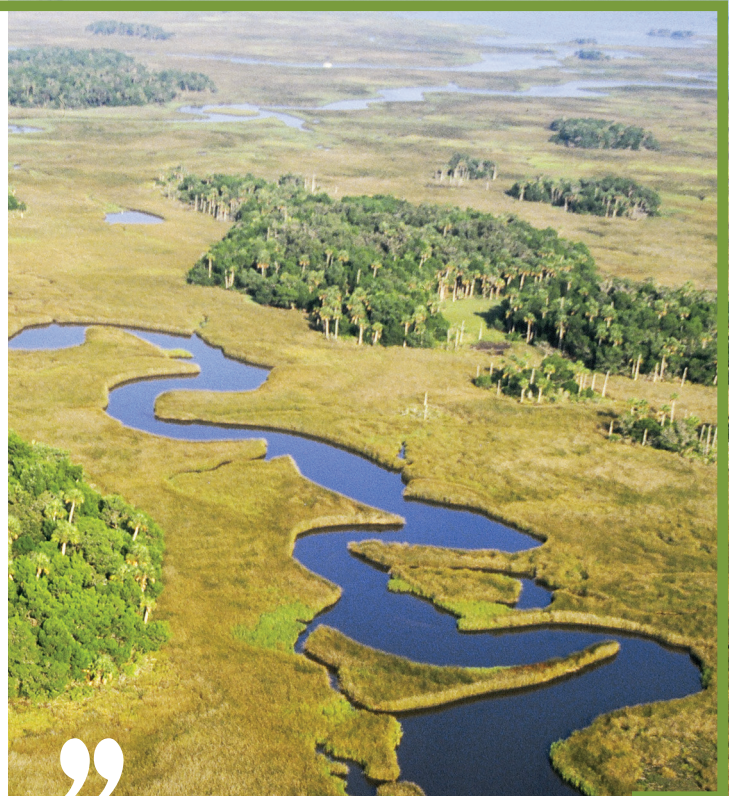
When you choose to give up some of these rights, either by donation or sale, you are compensated. The more rights you relinquish to the recipient, the more compensation you’ll receive, either by tax benefits or direct dollars, or both.

With the tourism and population boom in Florida, land is more valuable than ever. Some landowners would like to preserve the beauty and function of their land and also profit from the increased value. Others want their land to stay in the family, but worry that estate taxes will force their heirs to sell.

Landowners who sell conservation easements control the ownership of the property and receive money for the easement. The government receives assurance that valuable land will be protected from future development.

## WHAT IS A CONSERVATION EASEMENT?

A conservation easement is a restriction on the use of property similar to a deed restriction. It is recorded in public records and generally is in perpetuity.



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**WITH DEAN'S HELP WE WERE ABLE TO STRUCTURE A SALE AND DONATION WHICH ENDED UP BEING A TRUE "WIN-WIN" FOR BOTH THE COUNTY AND OUR COMPANY.**

Dean truly understands that for a deal to be a good deal, it must work for both the buyer

and the seller. Dean's negotiating integrity was of paramount value during the entire process.

**CARLOS VERGARA**  
LANDOWNER



# BENEFITS

## TO THE SELLER OR LANDOWNER

- The landowner maintains control and ownership of the property.
- The landowner benefits by keeping the land and getting paid for the appreciated value caused by development pressure.
- The landowner assures the property is protected for future generations.
- Future generations are assisted in transfer of the land by favorable estate tax treatment.
- Landowners continue to receive income from their land.
- Landowners may gain income tax advantages (see details further noted in this booklet).
- The property may be sold and the restriction travels with the property.

## TO THE BUYER OR RECIPIENT

- The buyer, or recipient in the case of a donation, of land conservation easements may be the federal, state or local government or a qualified conservation organization.
- The buyer can protect more resources with fewer dollars by buying rights to land and not the land itself.
- The buyer gets land in conservation that might otherwise be unavailable (ie: the landowner isn't interested in selling the land but only a conservation easement).
- The land continues to provide economic activity.





# CHARACTERISTICS OF LAND BEING ACQUIRED

The requirements or characteristics that make land eligible for an easement are determined by location and the unique qualities that the land possesses.

- Is the land a home to endangered plants or animals?
- Does the land contain unique water resources or is it part of a larger water system?
- Is it adjacent to government land?
- How much acreage is available?
- Was this land a prior converted wetland?
- Is the land in an Area of Critical State Concern (such as the Green Swamp)?

## HOW IS A CONSERVATION EASEMENT VALUED?

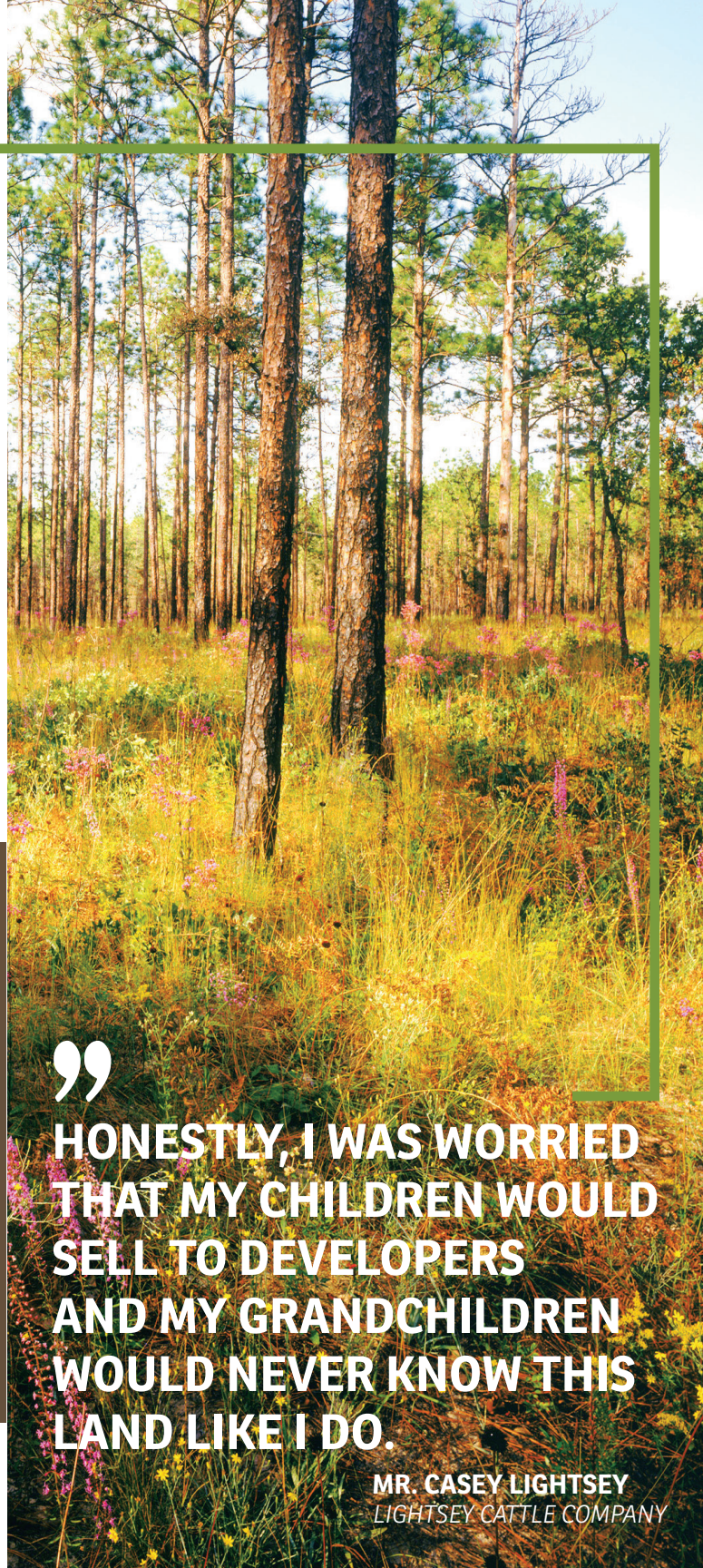
An easement is valued with an appraisal from a qualified appraiser.

The value of a conservation easement is determined by taking the fair market value of the land and subtracting the value of the land with the restrictive covenants.

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**HONESTLY, I WAS WORRIED  
THAT MY CHILDREN WOULD  
SELL TO DEVELOPERS  
AND MY GRANDCHILDREN  
WOULD NEVER KNOW THIS  
LAND LIKE I DO.**

**MR. CASEY LIGHTSEY**  
LIGHTSEY CATTLE COMPANY





# PERMITTED USES AND RESTRICTIONS

The permitted uses and restrictions of the land are generally negotiated between the buyer or recipient, and the seller, and are designed to meet the needs of both.

- Permitted uses by the landowner include:
  - Low intensity agriculture such as livestock grazing, timber, sod and some truck crop farming
  - Limited housing units for family members
  - Subdivision of land
  - Recreational uses including hunting, fishing and eco-tourism activities
  - Other uses negotiated between the buyer and seller
- General restrictions include:
  - Development of property
  - Some agricultural uses
  - Limited subdivision of property
  - Harvesting of wetland timber
  - Road construction (except that required for management)
  - Mining

”  
**IN MY EFFORTS OVER  
THE LAST 15 YEARS TO  
ACQUIRE AND MANAGE  
LAND FOR GOVERNMENTAL  
AGENCIES, I HAVE RELIED  
ON DEAN'S KNOWLEDGE  
AND UNDERSTANDING OF  
GOVERNMENT.**

His connections with nonprofit agencies, funding mechanisms, and private landowners helped to assist us in acquiring natural and

agricultural lands for public use. Dean uniquely bridges the gap between private property inventory and public ownership.

**RANDY MATHEWS**  
*Environmental Lands  
Coordinator, Osceola County*



# TAX ADVANTAGES AND IMPLICATIONS

Landowners may receive income tax advantages including gifting, tax deferred exchanges, and gains used against the basis value. Tax advantages can also assist in the transfer of property from generation to generation. An easement can lower estate taxes for heirs by maintaining the agricultural classification of the land.

## GENERATIONAL TRANSFER

This may benefit a landowner by lowering the value of the property for estate tax purposes. This happens because after the rights to develop it are sold, the highest and best use of the land is usually agricultural. Other than the obvious tax advantages, this strategy has several long-term benefits.

- First, families can keep the property by avoiding a crushing estate tax that robs them of both money and land.
- Second, the landowner gets money for the land but gets to keep the land too.
- Third, this strategy ensures that the beauty of the land will be enjoyed for generations and won't be destroyed by commercial development.

## GIFTING

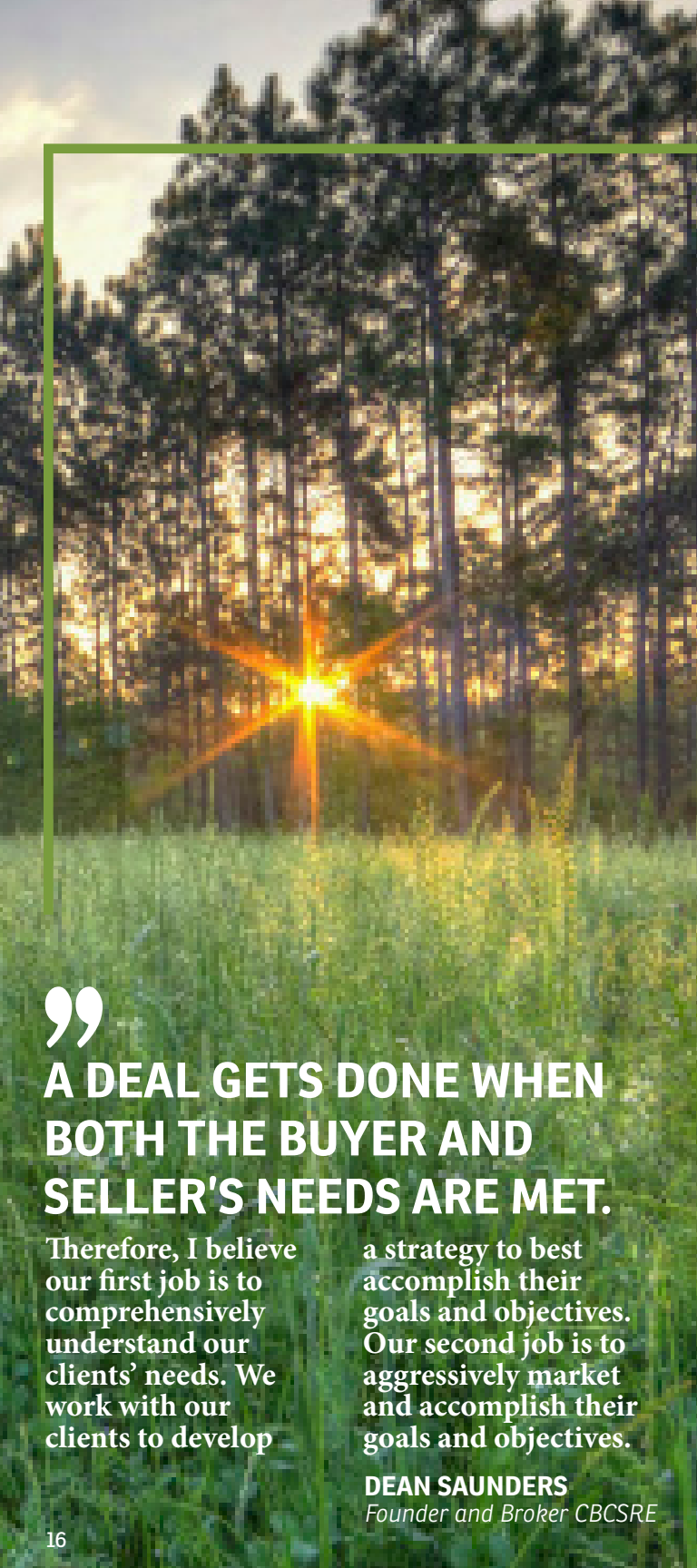
This is a donation to the government or to a qualified conservation organization. Gifting is treated as a charitable contribution and results in lower federal income tax.

## TAX-DEFERRED EXCHANGE

The IRS allows landowners who owe capital gains taxes as a result of the sale of property, to defer paying the tax by purchasing another piece of property instead of paying the tax. Known by several terms, this is often referred to as a tax-deferred exchange, a like-kind exchange, or a 1031 exchange.







## ” A DEAL GETS DONE WHEN BOTH THE BUYER AND SELLER’S NEEDS ARE MET.

Therefore, I believe our first job is to comprehensively understand our clients’ needs. We work with our clients to develop

a strategy to best accomplish their goals and objectives. Our second job is to aggressively market and accomplish their goals and objectives.

**DEAN SAUNDERS**  
*Founder and Broker CBCSRE*

The IRS also allows an exchange for owners who have a capital gain as a result of the sale of a conservation easement. See case study #1 for an example of how this might work for you.

### **GAINS USED AGAINST BASIS**

Basis is the amount you paid for the property, plus the value of any capital improvements, less any depreciation claimed. If you sell a conservation easement, the IRS will allow you to reduce your basis by the amount of the conservation easement, which may result in you not paying any capital gains taxes. See case study #2 that uses this tax advantage.

### **HOW DO I TAKE ADVANTAGE OF TAX BENEFITS?**

To take advantage of a federal income tax deduction, an easement must be perpetual and given to a specific division of the government or a conservation organization. Annually, the division or organization monitors the property to assure that the easement is not being violated.

### **IS THERE A DOWNSIDE?**

Landowners continue to own the property after establishing an easement; however, they give up their rights and the rights of future owners to change the designated use of the land. Conservation easements are permanent (perpetual) and cannot be changed; therefore, landowners should consider all aspects of an easement. Landowners can sell or lease the property with an easement, but all future owners must maintain easement requirements.

### **HOW OFTEN WILL MY LAND BE MONITORED?**

Usually it is monitored by an inspector who will make an annual appointment with you to assure that you are in compliance with the easement.

### **WILL THE PUBLIC HAVE ACCESS TO MY LAND?**

No, not without your permission.



# A LOOK AT TWO CASE STUDIES

Note: Because cases and their future implications are so different, we encourage you to include your attorney and CPA in this decision. Coldwell Banker Commercial Saunders Real Estate can provide the latest information and legislation to assure your individual outcomes.

## CASE NO. 1

**Landowner:** A successful man who has been a rancher for decades. He bought his land more than 45 years ago at \$500 an acre, and some of it is located on what is now considered a prime location for growth.

**His Objective:** He wants his grandchildren to have the opportunity to get to know and love the land that he has worked for his lifetime. He is concerned that his children could be persuaded to sell the land to developers. The calls have been coming for years, even more so now. He would like the land to stay in his family but be preserved as it is.

**Current Market Value:** Today's value of his land is \$6,000 per acre.

**The Buyer:** The state is interested in buying a conservation easement on this land. If he sells his land rights or a portion of them to the government, he will receive \$3,000 per acre for the conservation easement.

**Tax Issues:** Because this landowner bought his land long ago at a low cost by today's standards, he will have a substantial capital gain of \$2500 per acre. At the current capital gains rate of 15%, he will owe \$300 per acre in taxes. To defer paying taxes on that gain, he can sell the rights to the state, do a 1031 exchange for another property, and defer payment until the second property is sold.

**End Result:** This landowner will continue to own and work the land and be able to pass it on to his heirs, but the right to develop is gone, due to the agreement he made with the state. The original land remains preserved, and because he completed a 1031 exchange, his heirs will ultimately inherit two pieces of property.







”

**WHEN WE PURCHASED CAMP LONESOME, WE WERE INTERESTED IN CONSERVING THIS BEAUTIFUL TRACT OF LAND.**

The fact that the Ranch was on the Florida Forever “A” list added to this interest and opportunity. Even though Dean represented the seller of Camp Lonesome

Ranch, as buyers we quickly realized that he had tremendous knowledge and a passion for conserving these rapidly disappearing treasures in Florida’s landscape.

**CARLOS VERGARA**

## CASE NO. 2

**Landowner:** Ten years ago this landowner

inherited his father’s extensive land holdings, which had been purchased 45 years before for \$500 an acre. This land has been in his family for generations, and there is no desire to develop the land.

Inheritance taxes were based on the value of the property the day of the father’s death. At that time the basis of the property was adjusted upwards or “stepped up” to \$2,500 an acre. Any future capital gains would use \$2,500 as its basis.

**His Objective:** To keep the land in the family without being forced to sell to developers.

**Current Market Value:** Today, a decade later, the land is worth considerably more than the “stepped up” basis of \$2,500 per acre (per an appraisal). The family decides they would like to sell a conservation easement. The conservation easement is appraised at \$2,300 per acre.

**The Buyer:** A qualified conservation organization interested in the land’s pristine condition and several endangered species of wildlife buys the rights for \$2,300 per acre.

**Tax Issues:** This taxpayer will not pay any capital gains taxes because the amount he is paid for the easement, \$2,300 per acre, is less than his adjusted basis of \$2,500 per acre. The landowner now has \$2,300 per acre on which he doesn’t have to pay tax and his new tax basis is \$200 per acre.

$$(\$2,500 - \$2,300 = \$200 \text{ per acre})$$

**End Result:** The land stays in the family. This sounds too good to be true! This is a win-win situation for anybody who loves the land, its beauty, and its natural resources. If you love the land and want to see it preserved, a conservation easement might be the perfect solution for you. Let Coldwell Banker Commercial Saunders Real Estate help you preserve your future.



# THE SAUNDERS COLLECTION

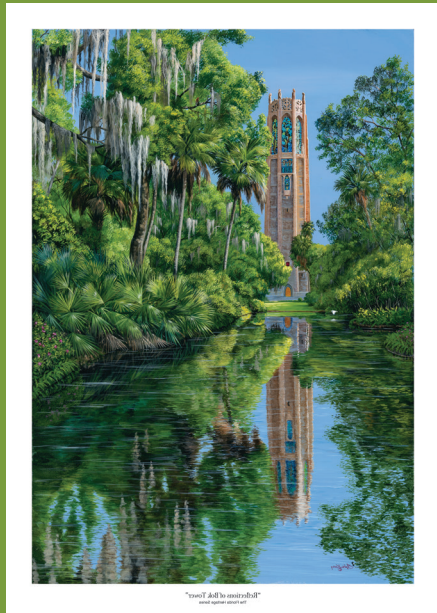
## NATURAL LANDS OF FLORIDA

Forever appreciating the now too rare natural Florida landscape, Dean Saunders continues to pursue ways to capture and conserve the state's natural beauty. As a sixth-generation Floridian, Saunders knows the natural Florida landscape that he enjoyed as a young man is a precious commodity for our future.

Each year, a different Florida landscape scene is selected by Saunders to be painted by well-known naturalist and landscape artist.

The commissioning culminates in a preview of the painting at an annual Coldwell Banker Commercial Saunders Real Estate (CBCSRE) event in the fall.

The collection display can be seen at the CBCSRE office.



In 2017, Steven Koury was commissioned to paint the Bok Tower.



“  
**NATURAL FLORIDA LAND  
HAS A BEAUTY THAT YOU  
CANNOT FIND  
ANYWHERE ELSE.**

It is a distinct  
landscape with  
unique wildlife.

Preserving it both in  
nature and in art is  
important to me.”

**DEAN SAUNDERS**  
Founder and Broker CBCSRE





# ABOUT OUR COLDWELL BANKER COMMERCIAL SAUNDERS REAL ESTATE

Coldwell Banker Commercial Saunders Real Estate (CBCSRE) was founded by Dean Saunders as Saunders Real Estate, LLC in 1996.

Today, as Coldwell Banker Commercial Saunders Real Estate, the company is considered by the industry as one of the top conservation and land real estate brokerages in the area. The office continues to receive top national recognition by the Coldwell Banker Commercial Affiliate network for sales volume.

CBCSRE's knowledgeable sales agents consistently take top honors for sales volume in the Coldwell Banker Commercial Affiliate network. Many serve on community and local planning boards, Realtors® associations, and trade associations. All have diverse but related backgrounds that support real estate work in land, conservation easements, and land and resource management.

With a sales force numbering in the dozens, licensed real estate sales associates cover the state of Florida and beyond with services that include those of the CBC network of 500 global offices and over 4,000 sales agents.

Proven experience, expert knowledge, excellent customer service, unsurpassed marketing services, and business savvy take real estate clients to the highest level of service. They also provide solutions for land, commercial real estate, land and resource management, and conservation easements.



# ABOUT DEAN SAUNDERS

Dean Saunders has a unique mix of experience in agriculture, real estate, and government. As the sixth generation of a Florida agriculture family, he knows land, as well as the needs of ranchers, growers, farmers, and commercial interests. His perspective is a result of both private and public service. Dean Saunders has a unique mix of experience in agriculture, real estate, and government. As the sixth generation of a Florida agriculture family, he knows land, as well as the needs of ranchers, growers, farmers, and commercial interests. His perspective is a result of both private and public service.

As a former member of the Florida House of Representatives, Saunders assisted in the creation of important property rights and conservation legislation to benefit both landowners and the environment. He served as Agricultural Liaison, Special Assistant, and Director of External Affairs to US Senator Lawton Chiles and then Governor Chiles.

Saunders is a licensed real estate broker and is certified as an Accredited Land Consultant (ALC) by the Realtors® Land Institute (RLI), then one of only 1,000 brokers nationwide. He is past president of the Florida Chapter of Realtors® Land Institute and former chairman of the Florida Real Estate Commission.

In 2003, Saunders was selected by the National Association of Realtors®, along with Alan Greenspan, then four-term chairman of the Federal Reserve Board, as one of the exclusive nine “Notables.” As a Notable, Saunders is considered by his peers to be among the powerful professionals impacting real estate nationally.

Recognition awarded to Saunders is numerous and includes “Legislature of the Year” from multiple organizations during his tenure in the state legislature. Saunders continues to be recognized for personal and company achievements from corporate and industry organizations, such as Coldwell Banker Commercial, National Association of Realtors®, Florida Association of Realtors®, Florida Gulf Coast Association of Realtors®, Central Florida Commercial Association of Realtors®, Florida Real Estate Commission, and other industry and business organizations.







**Saunders**  
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