

Conservation Easements



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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 to Conservation Easements

This resource aims to provide insight and professional consultation regarding Florida's conservation easement program and the rights of landowners.

Developed by Dean Saunders, ALC, CCIM, this booklet synthesizes his extensive knowledge and experience on conservation easements and how the preservation of natural resources could bring immense value to landowners. As an Accredited Land Consultant (ALC) and former member of the Florida Legislature, Dean spearheaded the action to establish these easement programs through the Green Swamp Land Authority in 1995. As a result of his efforts, the first Florida state agency was created to purchase development rights from landowners.

Furthermore, this development would require Florida state agencies to purchase a specific volume of conservation easements each year through state funding programs.

Since then, Dean has cultivated a vast library of expertise and years of experience working with conservation easements both in legislature and in real estate. His accumulation of knowledge is outlined here, providing vital information about selling land development rights and conservation easements.

The volume of conservation easements being purchased by federal, state, and local governments and conservation organizations is consistently rising. It is important for landowners to understand potential opportunities within this highly-specialized land market.

What is a Conservation Easement?

A conservation easement is a legally binding agreement with a qualified agency that rewards landowners who choose to limit development on their land. These contracts are typically set in perpetuity.

Conservation Easement Considerations

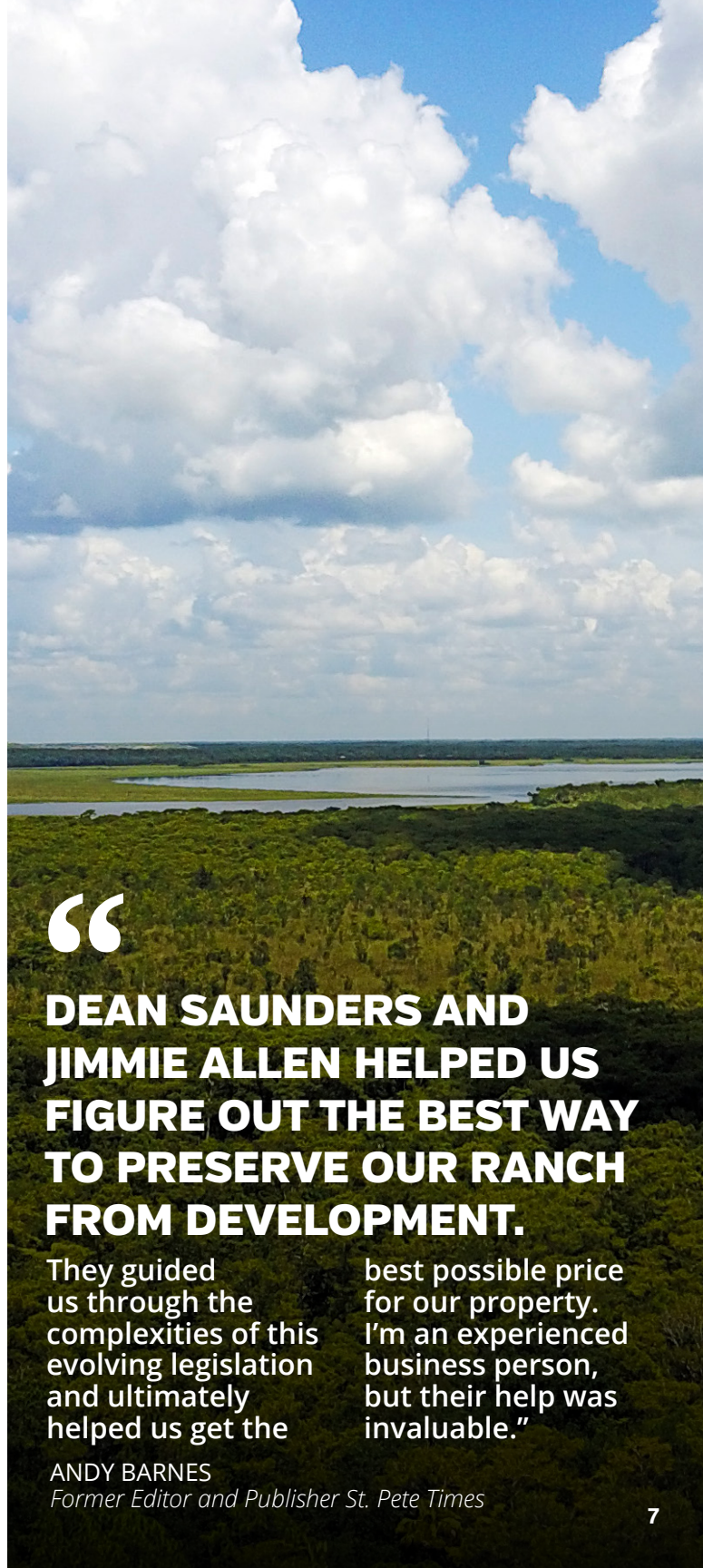
As a landowner, you also own a bundle of rights in terms of what you do on your land. These rights are mainly encompassed by the right to develop and the right to minerals and water, however there are other considerations as well. Collectively this bundle of rights is called “fee title.”

As a landowner, you can also sell some of these rights and still maintain ownership of the land. This is generally known as a “less-than-fee” interest sale. Typically, these transactions take the form of conservation easements.

In the sale or donation of conservation easements, compensation depends on a wide range of variables. For instance, the more rights you relinquish to the recipient, the more compensation you’ll receive. This could take the form of tax benefits, direct dollars, or both. Additionally, your level of compensation could depend on land volume and natural utility.

So, why would landowners want to sell their development rights? As tourism and population continue to skyrocket in Florida, land is becoming more valuable than ever. Landowners choosing to preserve their land’s beauty and functionality are now experiencing higher profits from the increased value of their land. Other landowners may wish to sell their fee title simply because they want their land to stay in the family but worry that estate taxes will force their heirs to sell.

Landowners are not giving away all developmental rights when they choose to sell conservation easements. As they still control ownership of the property, they also get to control the specifications and limitations within the contract. Obviously, there is more profit to be collected when landowners do decide to sell the entirety of their property rights, however this is not required. The landowner sets the terms of the easement while the government receives assurance that valuable land will be protected from future development.



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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 this evolving legislation and ultimately helped us get the

best possible price for our property. I’m an experienced business person, but their help was invaluable.”

ANDY BARNES
Former Editor and Publisher St. Pete Times



Benefits

To the Seller or Landowner

- The landowner maintains control and ownership over the property.
- The landowner is compensated for the appreciated value caused by pressure to development.
- 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 receive continual income from their land.
- Landowners may gain income tax advantages (see page 14).
- The property may be sold and the restriction travels with the property.

To the Buyer or Recipient

- Increased social welfare for the federal, state, or local government or qualified conservation organization that purchased the fee title.
- The buyer can protect more resources with fewer dollars by buying rights to land and not the land itself.
- The buyer acquires land in conservation that might otherwise be unavailable (i.e., the landowner isn't interested in selling the land but only a conservation easement).
- The land continues to provide economic activity.
- The land stays on the tax roll.
- The property may be sold and the restriction travels with the property.

Acquired Land Characteristics

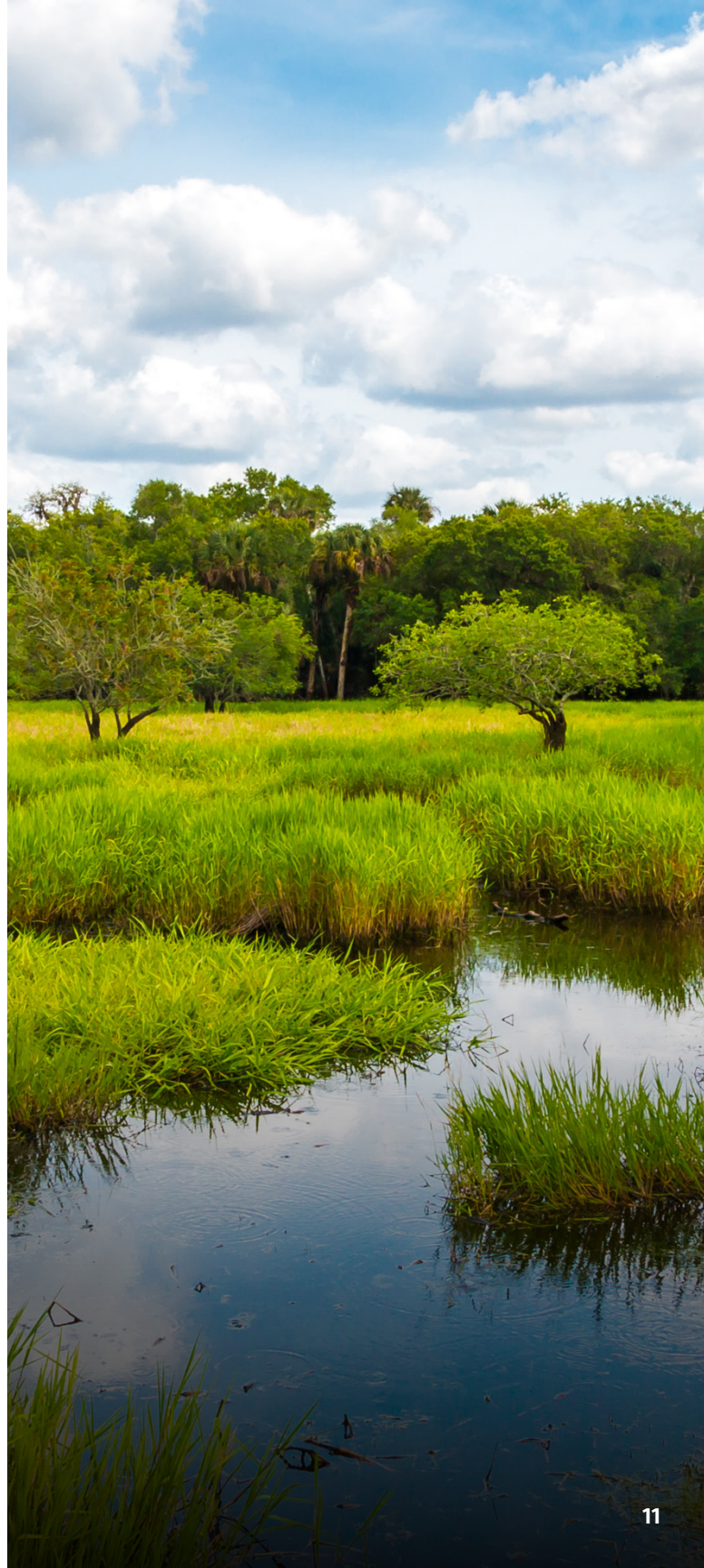
The requirements or characteristics that make land eligible for an easement are determined by its location and the unique qualities that the land possesses

- Is the land home to endangered plants or animals?
- Does the land contain unique water resources or part of a more extensive water system?
- Is the property adjacent to government land?
- How much acreage is available?
- Was this land a previously 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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IN MY EFFORTS OVER THE LAST 15 YEARS TO ACQUIRE AND MANAGE LAND FOR GOVERNMENT AGENCIES, I HAVE RELIED ON DEAN'S KNOWLEDGE AND UNDERSTANDING OF LEGISLATURE.

His connections with nonprofit agencies, funding mechanisms, and private landowners has been a great asset 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 Environmental Lands

Permitted Uses & Restrictions

The permitted uses and restrictions of the land are generally negotiated between the two parties 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
- Limited 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
- Significant subdivision of property
- Harvesting of wetland timber
- Road construction (except that required for management)
- Mining

Tax Advantages and Implications

Landowners may receive income tax advantages including gifts, tax-deferred exchanges, gains used against the basis value, and generational transfer of property. An easement can also lower estate taxes for heirs by maintaining the agricultural classification of the land.

Generational Transfer

Transfers may benefit a landowner by lowering the value of the property for estate tax purposes. This happens because after the developmental rights 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 money and land.
- Second, the landowner gets money for the land but gets to keep the land too.
- Third, this strategy ensures that future generations will enjoy the land's beauty.

Gifts

This is a donation to the government or 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 due to property sale 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.



“

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.

He 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

Tax Advantages and Implications

The IRS also allows an exchange for owners who have a capital gain due to the sale of a conservation easement. See Case No. 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 value equivalent from the conservation easement and results in the landowner not required to pay any capital gains taxes. See Case No. 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 government division 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 altered; 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.

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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 closely with our clients to develop a

strategy that best accomplishes their goals and objectives. Our second job is to aggressively market and accomplish these goals and objectives.

DEAN SAUNDERS, ALC, CCIM
Founder SVN | Saunders Ralston Dantzler Real Estate

A Look at Two Case Studies

Case No. 1

Landowner: There is a successful man who has been a rancher for decades. The land was purchased over 45 years ago for \$500 an acre. Some of the land 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 throughout his lifetime. He is concerned that developers could persuade his children to sell the land. 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 \$2,500 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, eventually passing 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 if he does not sell the second parcel.





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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 OUR INTEREST IN THIS OPPORTUNITY. EVEN THOUGH DEAN REPRESENTED THE SELLER OF CAMP

LONESOME RANCH, WE QUICKLY REALIZED THAT HE HAD TREMENDOUS KNOWLEDGE AND PASSION FOR CONSERVING THESE RAPIDLY DISAPPEARING TREASURES IN FLORIDA’S LANDSCAPE.”

CARLOS VERGARA
Landowner

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 on 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 wildlife species 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 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 SVN | Saunders Ralston Dantzler Real Estate help you preserve your future.

Note: Because cases and their future implications vary so widely, we encourage you to include your attorney and CPA in this decision. SVN | Saunders Ralston Dantzler Real Estate can provide the latest information and legislation.

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 an eighth-generation Floridian, Saunders remembers the beautiful Florida landscape that he enjoyed as a young man and recognizes it as a precious commodity for our future.

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

The commissioning culminates in a preview of the painting at an annual SVN | Saunders Ralston Dantzler Real Estate event in the fall.

The collection display can be seen at our Lakeland, Florida office.



“The Morning Post”

Danny O’Driscoll



“Everglades Feeding”

C. Ford Riley



“

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, ALC, CCIM
Founder SVN | Saunders Ralston Dantzler Real Estate



SVN | Saunders Ralston Dantzler Real Estate was founded by Dean Saunders in 1996 with a focus on land and conservation work that continues to be its hallmark.

Our team of real estate professionals are experts in the field of agricultural real estate. They include the top land broker in the country and former operators of some of the largest citrus and agricultural operations in the state. Our experience includes successfully completing billions of dollars in strategic dispositions of land and conservation programs.

SVN | Saunders Ralston Dantzler Real Estate is recognized as a national leader in land brokerage, our founding specialization and the continued flagship service of our firm. We are experts in all types of Florida land – citrus, farmland, timber, ranch, recreational, transitional, and conservation. Representing buyers, sellers, investors, institutions, and landowners, we have brokered over \$4 billion in land real estate transactions.

We have been recognized as one of America’s Best Brokerages by The Land Report, the nation’s premier land publication, since the inception of their national leadership list over ten years ago. In 2021, 2020, and 2018 our founder, Dean Saunders, was awarded the APEX Top National Producer Award. This award is given by the Realtors® Land Institute (RLI), the National Association of Realtors® land organization, and The Land Report Magazine based on assessment of land sales by brokers across the country.

We offer proven experience, expert knowledge, excellent customer service, unsurpassed marketing services, and business savvy to create solutions for all areas of land and commercial real estate brokerage services.

About Dean Saunders

Since 1985, Dean has specialized in Florida land and conservation easements. This passion only grew as he served in the US Senate under US Senator Lawton Chiles, then Governor Chiles (D-FL). It was then, as Agricultural Liaison, Special Assistant, and Director of External Affairs, that his vision of a successful conservation easement program in Florida was beginning to take form.

To his discernment, Dean knew there had to be a way to conserve Florida's natural landscape while still protecting landowners' property rights. Combining these two passions, Dean proposed and became one of three main sponsors of the legislation that later evolved into Florida's conservation easement programs. While controversial at the time, the initiative is now widely accepted and utilized by many of the state's landowners.

Dean's passion for Florida land is inherited from an eight generation Florida agricultural family. His upbringing provided him with the knowledge necessary to really value the needs of ranchers, growers, farmers, as well as commercial interests. His diverse perspective would continue to develop as a result of both private and public service.

After stepping away from legislature, Dean would go on to form the real estate brokerage firm known as Saunders Real Estate, LLC in 1996. The firm would later become affiliated with Gary Ralston, CCIM, SIOR and Todd Dantzler, CCIM in the launch of the commercial arm, Saunders Ralston Dantzler Realty.

In 2019, Saunders Real Estate merged with its sister company, fully establishing itself under the SVN Shared Value Network®, a globally recognized commercial real estate brand united by a shared vision of creating value with clients, colleagues, and communities.

Presently, Dean is consistently recognized by corporate and industry organizations including the National Association of Realtors®, Florida Association of Realtors®, and many more. His dedication and success is nationally recognized as one of SVN®'s Top Producers.





863.648.1528 | SVNsaunders.com

