





# Strengthening CEAs for Securement

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OLTA 2018 Gathering



## Outline

- CEA Working Group activities
- CEA Guide
- Issues and drafting considerations
- Discussion and questions



## Learning Objectives

- OLTA efforts to strengthen CEAs
- CEA Guide content and progress
- Drafting considerations and resources



North Kawartha/KLT  
- Mt. Julian Inn art



## OLTA CEA WG activities

- Background
- Best Practices in CEA Defence Report
- CEA cases, risk mgt., other research
- CEA registration bulletin
- CEA Guide

KLT – Dance Sanctuary





## CEA Guide Outline

- Introduction
- 1. Definitions
- 2. Representations and Warranties
- 3. Intention
- 4. Covenants
- 5. Easement
- 6. Owner's Obligations and Indemnity
- 7. Default
- 8. Notice
- 9. General Provisions

- SA. Legal Description
- SB. Covenants (22)
- SC. Easement
- SD. Baseline Doc. Report
- SE. Management Plan
- CLA excerpt

KLT -  
Dance  
Sanctuary



## Changes from 2008 Template

- “Guide” vs. “Template”
- parallel commentary column
- highlighted “conservation values”
- updated legal/government references
- new provisions
- new/refined covenant examples, reserved rights
- clarified meanings
- more commentary
- added CLA, Regs. excerpt

KLT – Emily Creek





## Changes from 2017 Gathering

- expanded introduction
- encourages plain language
- more covenant commentary
- new covenant examples
- new BDR acknowledgment statement
- changes suggested at Gathering 2017
- removed notes on editing

KLT - Ballyduff



## CEAs – not always simple!

- Detailed purposes – AFOCLT template
- Provisions for reserved interests
- Mortgage and lease subordination

KLT – Glen Burn

AFOCLT/RLC – Wilderness Islands





# CEAs – not always simple!

- Area size for forestry or severance
- Term length: tree cutting by-law, Ecogift
- Alignment with land use planning

Pickering Ag. CEA

KLT - Ballyduff



# CEAs – not always simple!

- Baseline report and maps
- Boundary issues
- Registration issues

HHLT – Haliburton property



AFOCLT/RLC - American Narrows



## Ecogift certificate paragraph

“The **terms** of the conservation easement agreement **must protect the ecologically sensitive features** for which the land is certified. **Strong conservation easement agreement drafting is therefore critical** to ensure that the ecological sensitivity is maintained. This certification of ecological sensitivity does not assess the conservation easement agreement’s rigour or defensibility in a court of law. Please ensure that all parties, and their advisors, **review the final version** of the conservation easement agreement for consistency and coherency throughout the document, including **references, definitions, provisions and schedules.**”



## Drafting Considerations

- What to keep or change from Guide
- Only an example, apply specifics
- Terms need to actually protect features
- Professional help for strong drafting
- Fresh eyes in final review

KLT - Elliott





## Discussion, Questions?

- Your experience, lessons
- How can the CEA Guide be most useful to you?

KLT – Emily Creek

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