



Securing Properties Owned by Americans: Help is Here!

October 18, 2018
OLTA Gathering Session 4B

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Marnie Ross, Thousand Islands Watershed Land Trust
Kristen Callow, Ontario Land Trust Alliance

Cross-border Conservation Training Program



October 18, 2018

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A Partnership of



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Cross-border Conservation Training Program



October 18, 2018

This document is not intended to provide legal, financial or other advice, or to provide a comprehensive documentation of all issues relevant to taxation in Canada, or estate planning for owners of Canadian properties.

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CCTP Goal

Build OLTA Members' capacity to secure high-priority conservation lands that are owned by US tax-payers.



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Goals of this session

- Demonstrate new tools and resources from the CCTP that are available to support your land trust's cross-border conservation efforts
- Acquire the fundamental knowledge about US and Canadian tax incentives that you need to promote conservation with American landowners
- Expand your ability to structure and negotiate transactions involving US taxpayers who own land in Canada

Real examples from TIWLT will help us achieve goals

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Lessons Learned

- Many landowners and their advisors are unaware of cross-border conservation tax issues or opportunities
- US taxpayers often are trying to make it financially feasible to pass their Canadian properties to their heirs
- Satisfaction of achieving conservation goals together with tax benefits motivate donors to pay extra costs
- Expert advice for donors is essential



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Education is Essential

- In the US, \$5.49 M in gifts not subject to gift/estate tax
- Income/estate/gift tax deductions allowed on gifts of fee or conservation interests
- Capital gains tax due only on sales that generate cash proceeds



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US owners need to know...

- Gifts and bequests of Canadian property can result in a capital gains tax liability
- The tax can be up to 25% of appreciation in value
- Conservation can reduce or eliminate Canadian tax
- US income tax deductions are also possible



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Key Concept I



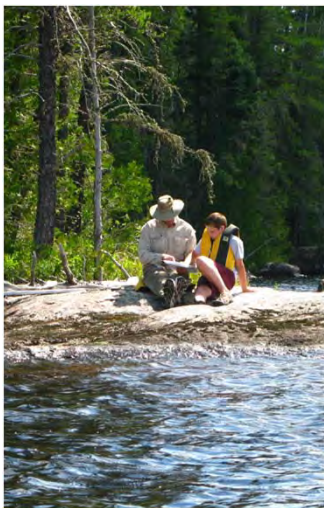
Different types of incentives for cross-border conservation

- Relief from Cdn capital gains tax on conservation gift
- Potential reduction or elimination of Cdn tax on other transfers
- Possible Cdn tax credit
- US estate tax and income tax deductions

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Key Concept II



Three types of donees

- Canadian qualified donees (land trusts, government agencies) including Ecological Gift recipients
- US charity
- Prescribed donee, including American Friends

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Summary of Three Donee Options

GIFT TO CANADIAN CHARITY OR OTHER QUALIFIED DONEE

- Relief from Canadian capital gains taxes (on the gift)
- No U.S. income tax benefit, unless Canadian-source income

GIFT TO A U.S. CHARITY (That is not a Prescribed Donee)

- When Canadian capital gains are not an issue for the donor
- U.S. income tax benefit

GIFT TO A PRESCRIBED DONEE

- Relief from Canadian capital gains taxes
- U.S. income tax benefit
- e.g. American Friends
- Often best tax outcome

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Three types of gifts highlighted today

- Fee title to prescribed donee
- Conservation easement to prescribed donee
- Ecological Gift to Canadian Charity

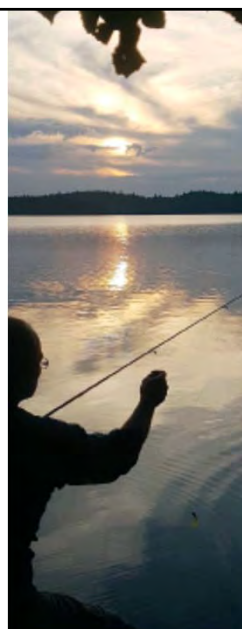


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GIFT TO CANADIAN CHARITY may make sense when...

- Donor has Canadian-source income and can use a Cdn tax receipt, or
- Has limited U.S income to utilize a US tax benefit
- No \$ available for additional costs of US tax deductible transaction
- Likely appraised value of the gift is < \$200,000
- In the case of a conservation easement, the Canadian entity is or will be recognized by the IRS



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ECOLOGICAL GIFT may make sense when...

Donor has:

- Canadian-source income (and can use a Cdn tax receipt) and/or
- Other taxable Canadian property to transfer (triggering a capital gain)
- Wants comfort of ECCC oversight

Note: EGP recipient should be recognized by the IRS before accepting a conservation easement.

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What is a Prescribed Donee?

- Category in Canadian Income Tax Act
- Incentive for US taxpayers to protect ecologically significant property
- Can eliminate Cdn capital gains tax on gift is reduced or eliminated
- Net effect like gift to CDN charity, plus U.S. tax benefits
- American Friends is the only Prescribed Donee created to support Canadian entities

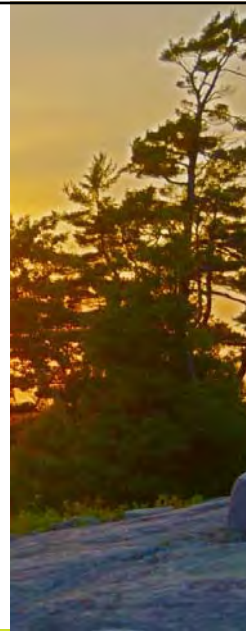


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GIFT TO A PRESCRIBED DONEE may make sense when...

- Donor wants a US income tax deduction
- Donor has no Canadian-source income
- Donor is not disposing of appreciated taxable Canadian property
- Property is a priority for your organization
- Property/gift value > \$200K
- There is a source of funds to cover costs



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Fee simple donation to a prescribed donee

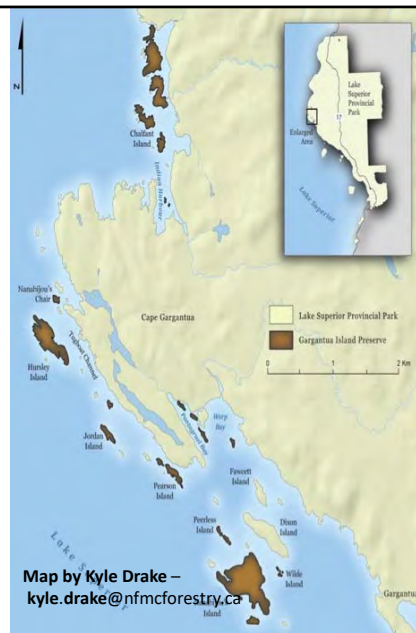


GARGANTUA ISLANDS PRESERVE

A partnership between
Lake Superior Watershed
Conservancy &
American Friends of Canadian
Land Trusts



Lake Superior Watershed Conservancy

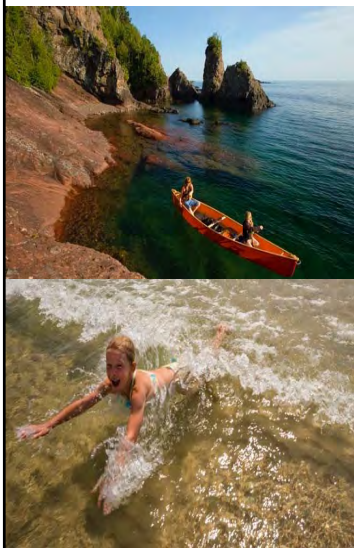


Map by Kyle Drake –
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Conservation Values



- 20 islands = 128 acres/ 52 hectares
- Cultural and spiritual significance for Batchewana First Nation
- Adjoins Lake Superior Provincial Park
- Highlight of the Lake Superior Water Trail
- Arctic-alpine disjunct plants, ancient cedars
- Peregrine falcon nesting sites
- Volcanic sea caves and promontories

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Transaction details


Donors

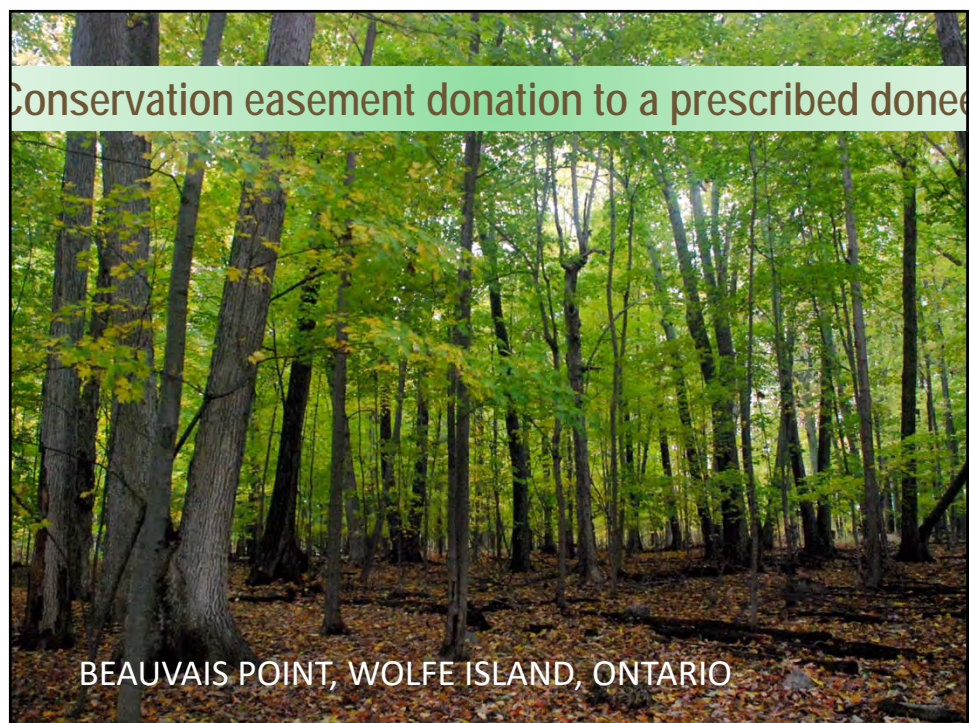
- 3 brothers, in 3 US states
- Inherited islands from father
- Acquired by grandfather, a Detroit lawyer in 1920s
- No Cdn income, no other Cdn assets

Acquisition

- Donated to AF in 2012
- 2017 AF transferred to LSWC

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Thousand Islands Watershed Land Trust & American Friends of Canadian Land Trusts



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Burton and Charlotte MacLean



MacLean's Three Objectives:

- Make it affordable to pass the property to their children, and grandchildren
- US tax deduction to offset the sale of his US business. (They have no current Canadian income)
- Conserve the property's natural attributes that their family has enjoyed for generations

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Conservation Values, MacLean Property


- Undisturbed frontage on St. Lawrence River
- Rare hardwood forest
- Vernal wetlands
- Habitat for fish and migratory birds
- One of few remaining forested parcels on Wolfe Island

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Conservation Easement, MacLean Property

The easement on the whole property with building envelopes



1:3,400

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Conservation Easement, MacLean Property



- The whole family was on board
- Donors were willing to finance the project to meet the tight timeframe and provide stewardship monies
- We had expert help and we all worked together to get it done on time
- TIWLT board members liked the natural features and the family's dedication
- Donors were thrilled with the result

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Conservation Easement, MacLean Property

- Canadian and US professionals for both appraisals, accounting/Taxes, and legal requirements for easement
- TIWLT did groundwork including title searches, ecological assessment, environmental assessment and GIS mapping
- Donated to American Friends in December 2016



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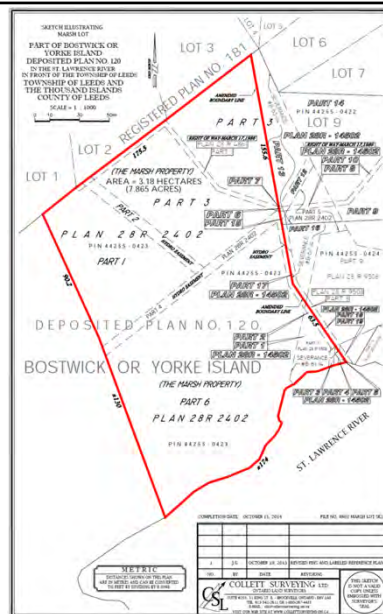


Bostwick Island, Bob and Paula Street

Street's Goals:

- Give the cottage properties to the next generation in legally conforming lot sizes
- Conserve the natural heritage of Bostwick Island Marsh
- Use tax credit from EcoGift of the 8-acre "Marsh Lot" to cover the capital gains on cottage transfers

Ecological Gift, Bostwick Island



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Ecological Gift, Bostwick Island



SAVE MONEY AND THE LAND YOU LOVE

Saturday, July 30, 9 - 11 am
At Bob and Paula Street's cottage, Bostwick Island



Canadians, Americans, Anyone

Conservation Options that will save Treasured Land and Reduce Taxes: Income, Capital Gains or Property
Estate Planning and Generational Land Transitions
American Friends of Canadian Land Trusts, Thousand Islands Watershed Land Trust,
Ray Kinoshita CPA/CA of Grant Thornton Cross Border Taxation Expert
Save Money and the Land You Love!

Please register: info@tiwt.ca phone 613-659-4824

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Bostwick Island

How it worked out:

- Streets transferred the cottage properties to their kids
- The marsh donation and the AF workshop inspired neighbors to donate a second part of Bostwick Island Marsh to TIWLT
- Bob was thrilled with the great deal he made for the land and for himself



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Identifying Properties and Ownership

Proactive effort

- Prioritize your working area in a securement plan
- Identify ownership
 - Search roll numbers for mailing addresses
 - Partner with entity who has access to that information
 - Hire someone



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Outreach and communicating with landowners

- Understanding your topic
- Package of material
- Workshops for owners and advisors
- Promote to Realtors, appraisers, lawyers, accountants
- Brochure, display and distribute
- Personal mail



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Role Play



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Questions?

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