



OAK RIDGES MORaine LAND TRUST

Securement Direction and Principles Policy

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	Board of Directors

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Appendices are included only for reference purpose only and do not require Board approval.

Appendix 1: Oak Ridges Moraine – “Partners in Protection”

Appendix 2: Methods of Land Securement

1.0 Introduction

- 1.1 The Oak Ridges Moraine Land Trust’s (“ORMLT” or the “Trust”) business is the long-term stewardship of ecologically significant lands on and near, the Oak Ridges Moraine (the “Moraine”) and the securement of such lands.
- 1.2 This Organization Policy sets out the program directions, goals, values and approaches for land securement by the Trust consistent with the Standards and Practices for Canadian Land Trusts and governed by the Trust’s Strategic Direction and Management Organization Policy.
- 1.3 The Trust’s objectives and priorities for land securement are consistent with the Oak Ridges Moraine Conservation Plan (“ORMCP” or “Conservation Plan”) and are designed to contribute to natural area conservation and protection in the Conservation Plan’s implementation.

- 1.4 The Trust is a member of the Ontario Land Trust Alliance and co-operates with many partners and funders (e.g. Indigenous communities, Conservation Authorities, municipalities, the Ecological Gifts Program, Oak Ridges Trail Association, stewardship councils, donors, foundations, etc.) in strategic securement of natural areas (Refer to Appendix 1 for a list of recognized partners and their respective contributions).
- 1.5 The Trust uses many land securement approaches including: conservation easement, fee simple ownership; life interest / lease back; partial taking; partial sale; bequests; option to purchase; right of first refusal; land exchange; cooperative land use agreement and limited development (refer to Appendix 2 for a complete listing including short explanatory descriptions of these methods).

2.0 Principles and Management

- 2.1 Securement of properties by ORMLT must be to accomplish the Trust's objective of protecting ecologically important properties on and near the Oak Ridges Moraine and must meet the eligibility and priority guidelines in this Organization Policy in Section 4 and 5 below.
- 2.2 Properties to be secured must have a stewardship evaluation and preliminary funding prior to final execution of the securement agreement.
- 2.3 In exception to section 2.1 above, any donated or acquired lands not suitable for ecological protection (e.g. fee simple donations, fundraising) may be sold or transferred.
- 2.4 Stewardship of secured lands must be consistent with the Trust's protection goals and property conservation values and is to be governed under the Stewardship Direction and Principles Policy.
- 2.5 In the case of dissolution of the Trust, secured land and all other net assets will be transferred to an appropriate land trust, another charitable organization, conservation authority or other government agency, taking into consideration whether the new holder can fulfill the long-term stewardship and enforcement responsibilities. The Trust will not mortgage any Trust owned properties under any circumstances.
- 2.6 Unless otherwise required and approved by the Board in the negotiation process, all secured lands will be maintained under the Trust's stewardship without restriction.
- 2.7 The Trust shall recommend in writing to all landowners that they need independent legal and financial advice.
 - 2.7.1 Landowners who choose not to retain legal counsel and financial advice will be required to sign off in writing accordingly.

- 2.7.2 The Trust may assist landowners with the costs for independent legal and financial advice, subject to the prior approval of the Board, where necessary.
- 2.8 ORMLT may pay for surveys for land securement only when these are needed to acquire and register the land donation, purchase or easement.
- 2.9 The Trust will only work with willing donors, vendors, and partners and take appropriate measures to secure land.

3.0 The Ecological Gifts Program (“Eco-Gifts”)

- 3.1 Land donations (fee simple and conservation easements) approved under the Ecological Gifts Program cannot be modified or nullified without required federal and/or provincial approval, otherwise the Trust may incur certain financial penalties.
- 3.2 It is the Trust’s responsibility on fee simple properties, submitted under the Eco-Gifts program, to complete a management plan. The securement of Conservation Easement Agreements, under the Eco-Gifts program, requires the Trust to complete a Baseline Documentation Report upon closing, unless seasonal conditions prevent the completion of a full baseline documentation report by closing.

4.0 Criteria for Establishing the Eligibility of Land for Securement

- 4.1 Properties must:
 - 4.1.1 Be on or near, the Oak Ridges Moraine ecological system with particular emphasis placed on lands, natural areas and waters within the Natural Core Areas and Natural Linkage Areas as defined in the Oak Ridges Moraine Conservation Plan.
 - 4.1.2 Contain one (1) or more of the following features: substantial forest cover, significant wildlife habitat, species at risk habitat, prairie grasslands, streams, rivers, valley lands, wetlands, kettle lakes, source areas or vulnerable aquifers.
 - 4.1.3 In keeping with the Natural Heritage Information Centre (NHIC)’s Sensitivity Training, species identified through NHIC to be “Restricted” will not appear by name in any internal or external communication where the property location or name is also identified. Staff will maintain a secured record of the species and location in protected files and will only identify the species as “Restricted” in communications to the Land and Stewardship Committee as well as the Board of Directors.
- 4.2 Notwithstanding section 4.1 above, properties within Countryside Areas or Settlement Areas as defined in the ORMCP where remedial measures or changes in land use and conservation would further the objectives of the

ORMCP, and properties required to protect and implement the Oak Ridges Trail Strategy may also be considered for securement.

5.0 Criteria for Establishing the Priorities on Land for Securement

5.1 Subject to section 4.0 above, the Trust will place higher and stronger priorities for its securement action using the following criteria:

5.1.1 **Natural Heritage Mapping Strategy:** All potential properties will be assessed with the weighting score, priority level and threat assessment

5.1.1.1 **Priority Area First Approval** As per the Board Motion **BD Apr 3/19-5**, all potential priority properties within the approved Priority Areas have been given first approval to begin securement investigation and incur costs, including title searches, appraisals, surveys, legal fees and staff time, up to the approved amount for the current period

5.1.2 **Sensitivity:** Areas identified as part of the Oak Ridges Moraine Conservation Plan or similar provincial, regional or federal mandated strategy and properties where there is serious emerging threat to natural area health and sustainability or culturally significant areas

5.1.3 **Proximity:** Properties, including those properties that do not meet criteria 5.1.4 below, that are in proximity to or integral to existing secured and protected properties

5.1.4 **Size:** Properties that contain over 25 acres of significant natural features and functions

5.1.5 **Support:** Properties of interest to the Trust's municipal, regional and/or funding partners to support implementation of their environmental and/or greening strategies

6.0 Funding for Land Securement

6.1 The Trust will update annually its land and trail securement targets, work plan priorities and associated costs or funding requirements.

6.2 Securement costs will include fees for land purchase costs (where applicable), professional services and program administration including the estimated costs for long term stewardship care of each property

6.3 Securement activity will be funded from a variety of sources including grants, donations, general revenues and project specified revenues.

6.3.1 Land donors will be asked to cover their own legal costs and to help with the Trust's ongoing acquisition and stewardship costs.

Oak Ridges Moraine – “Partners in Protection”

Indigenous Communities	Contribution
Indigenous Communities	Outreach & Stewardship
Government Agency (GO)	Contribution
Province – Municipal Affairs	Oak Ridges Moraine Conservation Plan (ORMCP), planning legislation, advisory services
Province – Natural Resources	Natural area mapping, provincial parks on ORM, technical expertise, funding support
Municipalities - Region	Official Plan, regional forests, funds for projects
Municipalities - Local	Official Plan, zoning regulations, municipal parks, funds for projects
Conservation Authorities	Watershed programs, acquire conservation areas for public use, stewardship and funding assistance
Environment and Climate Change Canada	Ecological Gifts Program allows ORMLT as the recipient agency to qualify landowner donations of significant lands for 100% charitable tax receipt; Funds for projects
Non-Government (NGO)	Contribution
Oak Ridges Trail Association (ORTA)	Builds and manages OR Trail – partner in trail securement with ORMLT
Ontario Land Trust Alliance (OLTA)	Standards for land trusts, communications with government on policy and incentive funding
Nature Conservancy of Canada (NCC)	Partner with ORMLT in larger natural area projects – combined expertise and fundraising
Foundations and Charities e.g. Greenbelt, Trillium etc.	Matching funding for ORMLT securement and stewardship projects for ORM natural areas
Conservation Organizations	Stewardship councils, Save The Oak Ridges Moraine (STORM) & naturalists clubs have volunteers and funds for stewardship projects
Community Groups	Service clubs and ratepayers provide volunteers and fundraising for ORMLT securement projects
Landowners	Land donations to ORMLT and ongoing private

Individuals

stewardship of registered conservation easements
Volunteers, donations and fundraising for projects

Methods of Land Securement

ORMLT will secure land through a variety of methods that involve donations and purchases. These methods are generalized as follows:

Conservation Agreement (Easement and Covenants)

A conservation agreement may be formally registered on land title to protect the conservation values of specific lands. Under this agreement the landowner remains as the property owner, but the land trust is entrusted with long term protection in cooperation with the landowner (and subsequent title holders). Protection in this registered agreement is legally described in the right of inspection by the Trust (the conservation easement) and the compliance of all parties with the specified values and land uses (the restrictive covenants). Conservation agreements have been extensively used by the Trust in its voluntary partnerships with landowners to protect the significant features and values of moraine lands in perpetuity.

Fee-simple

This option involves the acquisition of all or part of a property. This can be done through an Agreement of Purchase and Sale or a straight donation. When donation agreements are processed under the Eco-Gift Program, approval will require and describe eligible features and values to be protected in the land donation.

Life interest / lease back

A lease or life interest contracts are written agreements that allow the landowner to continue to use the property and retain some rights after the Trust has acquired it. Generally, the Trust serves as stewards. Such agreements usually have a set term and are not transferable. The retained rights may have an appraised monetary value associated with them.

Partial taking

Part of the landowner's property is severed for conservation purposes, which they can sell or donate to the Trust. Through the process of a direct conveyance, a conservation lot is being created and must be done in partnership with a government partner. Alternatively, the Land Trust can apply for a severance, but it is not creating a developable parcel.

Partial sale (split receipt)

The landowner sells land to a conservation organization/land trust at a reduced price and contributes the remainder of the property value as a charitable gift to the organization. If this method is put through Eco-Gifts, the vendor/donor must donate a minimum of 20% of the appraised value.

Bequest

Land can be bequeathed in a landowner's Will. The Will can be written to have the estate donate a specific parcel outright or after the remaining balance of the estate debts are paid. The will can also be written to have the land trust as a secondary beneficiary in the event of death of the primary beneficiary.

Option to purchase

A contract that allows a land trust to buy a specific piece of property at a set price for a stipulated period of time. It is a written contract by the landowner to sell the property and not to withdraw this offer during the stipulated period of time. The land trust pays a fee for this option. This mechanism is often used by a land trust as a means of "buying time" in its attempts to acquire a specific piece of land. Perhaps the trust will use the time to fund-raise and/or to contemplate how the land in question fits in with its long-term priorities.

Right of first refusal

An agreement between a landowner and a land trust, or other prospective buyer that gives the trust a chance to match any third party offer to buy a specific piece of property. It sets out the conditions of sale and is registered on title to the property. It is an interim measure, allowing a trust to acquire a key property some time in the future. It can be a good tool to use if negotiations have halted, e.g. unacceptable appraised value. Right of First Refusal is also a means by which to discourage other potential buyers (perhaps developers) as they will know they have competition and that the holder of the first rights has priority.

Land exchange

Involves the trade of one or more parcels of land for other parcels. The land trust can assist in brokering such an exchange even if it does not hold title to any of the land in question. It can be used when a landowner is willing to donate land, but the land is of less ecological value than another parcel owned by someone else (usually nearby). It can be straightforward or complex, depending on the situation. Differences in the value of the land parcels are usually accounted for through a cash payment or a bargain sale.

Cooperative agreement

Land is protected through means of a joint venture between organizations. Generally, there are two forms of co-ownership: tenancy in common and joint tenancy, as follows:

- Tenancy in common means that each tenant holds a set share in the property (can be unequal/proportional) which entitles the holder to possession of the whole (all the property belongs to all the owners). It can be willed/inherited to another. This can be used by land trusts to finance a mutually beneficial purchase, enact a bargain sale, or to acquire management interest in a property.

- Joint tenancy ensures that each owner has an identical share with all other owners. It cannot be passed on to another person in a will. Similar to tenancy in common, each owner has an undivided share in the whole.

Limited development

Developing a small portion finances the protection of the remainder of the land. It is often regarded by land trusts as a “last resort” to ensuring the protection of more ecologically sensitive habitat on the property without compromising Land Trust goals. Commonly a conservation easement is placed upon the sensitive portion of the subject lands to ensure long-term protection.

Note

There are benefits and limitations associated with each method of acquisition. A case-by-case assessment must be undertaken to determine the quality and significance of the resources or function of each property. Based on the resulting information, the Trust would then determine the appropriate type of ownership to ensure the protection of the features or functions of the land. Where securement involves landowner donation, then both the Trust and the landowner must agree voluntarily to the content and conditions of protection in the agreement.