

Succession Planning for Your Valuable Lake Property



Northern Waters Land Trust

September 30, 2021



An aerial photograph of a lake surrounded by a dense forest. The water is dark blue, and the trees are green. The sky is blue with some white clouds.

Presentation & Zoom Webinar Logistics

Attendees are automatically muted
when joining Zoom

Type questions in the Zoom chat during the
various presentations.
(Staff will consolidate questions for the Q/A at the end)

Slides & Recording will be available after
the webinar

Q/A will be at the end of the
presentation



Agenda

- Welcome & Overview of NWLT
 - Bob Karls
- Tax Barriers to Transfers to Heirs
 - Andy Biebl
- Importance of Planning
 - Derek Jensen
- Use of an Entity to Hold Valuable Property
 - Laura Hansen
- Preserve your Property: Conservation Easements
 - John Sumption
- Why NWLT Needs Support
 - John Sumption
- Methods of Supporting NWLT
 - Mike Burton
- Q&A





Bob Karls

Board Chairperson
Northern Waters Land Trust

Overview of Northern Waters Land Trust





Northern Waters Land Trust

Preserving Land to Protect Water

- **Mission:** Protect water quality and preserve environmentally sensitive lands and water resources
- **Service Area:** Cass, Crow Wing, Hubbard, Aitkin
- **Prioritization Tool:** Protect environmentally-sensitive lakeshore and larger watershed parcels
- **Staff of Specialists**
- **Volunteer Board of Directors and Committees**
- **Non-profit** Sec. 501(c)(3) organization





Caveat: We are not providing legal or tax advice.
This session is designed solely to provide an overview of
alternatives to consider for your specific situation with your
professional advisors.

Workshop Goals

- Identify alternatives and strategies for transferring valuable lakefront or recreation property
- Highlight charitable strategies that may benefit you and NWLT's conservation mission





Andy Biebl

Retired CPA

Tax Barriers to Transfers to Heirs



Two Alternatives: Give or Sell

Most common: Give to heirs

- Give/bequest at second spouse's death (**Estate Tax barrier**)
 - Federal estate tax exemption per decedent: \$11.7 Million of value
 - Minnesota estate tax exemption per decedent: \$3.0 Million
 - Tax rate on excess:
Federal 40%; Minnesota 13-16%
- Give during lifetime (**Gift Tax barrier**)
 - Federal: \$15,000 annual exclusion per donee; excess consumes \$11.7M estate exemption
 - Minnesota: No gift tax

Tax Barriers to Transfers to Heirs



Tax Barriers to Sale

Sale (the Income Tax Barrier)

- Sale post-death: (e.g., by estate – to Child #2)
 - Tax cost = value at date of death; thus no gain and no cap. gain tax (“step-up in basis” rule)
- Sale during lifetime: Capital gain on excess of sale price over accumulated cost
 - Federal rates: 0% < \$80K joint taxable income; 15% from \$80K to \$500K; 20% on excess (+ 3.8% over \$200K single/\$250K joint)
 - Minn. rates: 8%, but 10% over \$200K income
 - Example: \$500K gain ~ 29% combined rate; \$1M gain ~ 34% rate



Tax Barriers to Sale

Installment Sale:

Seller-Financed to spread gain over multiple tax years to use lower cap. gain rates (0% and 15% vs. 20% + 3.8% tax)

Conservation easement before sale:

Reduces value for sale

* Plus creates a charitable deduction that may offset capital gain from sale

Strategies to
reduce capital
gain tax cost





Derek Jensen

Financial Advisor

Edward Jones

- Walker

Importance of Planning



No Plan for your lakeshore property?

No Will/Outdated Will

Minnesota intestacy law
will determine who receives
the property
– via relationship

Will – to heirs equally

But this plan ignores the realities

- Unequal use by heirs
- Unequal ability to fund the overhead of the property
- Unequal time and effort in maintenance/management
- One heir wants to sell

Or the worst horror of all

Divorce or death of an heir
and their share of ownership
goes to - - -




...that worthless
son-in-law





Planning Solutions

- Use of an entity – LLC or Trust
 - Written agreement to govern rights and obligations of owners
 - Percentages can vary
- Seek professional advice to implement/customize



More to come from:
Attorney Laura Hansen





Laura J. Hansen

Attorney

Breen & Person, Ltd

- Walker

Lake Property
Succession to the
Next Generation
of Owners



Options for transferring ownership to the “Next Gen”

- Gift or sale during your lifetime; leaseback
- Gift or sale to establish joint ownership
 - Joint Tenancy, Tenancy in Common, or Life Estate
- Gift upon death by bequest in will or trust; or by TODD
- Cabin Trust
- Business Entity – Limited Liability Company (LLC) or Family Limited Partnership (FLP)



Considerations for each type of transfer to the “Next Gen”

- **Lifetime gifts:**

- Do not get the ‘step up’
- They apply towards federal estate tax exemption
- Control goes to the Next Gen owners

- **Joint ownership:**

- Next Gen owners have a certain amount of control
- They ‘bring their life to the asset’, including death, divorce, bankruptcies, & liabilities
- Impact on HELOCs and mortgages

- **Outright gift upon death**

- Benefit of ‘step up’
- No structure in place for joint ownership among members of ‘Next Gen’



Cabin Trusts

“A Little Dictatorship”

Trust in Simple Terms: An agreement between the ‘settlor’ and the ‘trustee’ to hold property and other assets for the benefit of the named beneficiaries pursuant to the terms of the Trust

When is it a good idea to use a Cabin Trust?

- Goal is to keep lake property in family and dictate terms
- Strong leader among group of ‘Next Gen’ and less interest in management by other members of the family
- Goal is to pass lake property to generation beyond the ‘Next Gen’

Cabin Trusts need liquid assets (\$\$) in addition to real property



Photo Credit: Pat Kullberg



Cabin LLC

“A Baby Democracy”

LLC in Simple Terms: A modern form of partnership and is an agreement among its ‘member – owners’ to pursue a business purpose. Owning lake property as an investment can be the business purpose

- *Primary governing document is the Operating Agreement* -

When is it a good idea to use a Cabin LLC?

- Goal is to keep lake property in family and allow ‘Next Gen’ and beyond to establish the terms of ownership
- Family members are responsible, communicate well, and get along with each other
- Goal is to provide opportunity for family members and future generations to own the family lake property

Cabin LLC also needs liquid assets (\$\$) in addition to real property



Final Considerations

Questions to Consider:

- What do you 'value' the most about your lake property?
- What are you trying to preserve and pass on to your family members?
- Do your family members want to own the family lake property and do they want to own it together?

Next Steps:

- Have A discussion with the 'Next Gen' is the first place to start planning for lake property succession
- Visit our website, www.breenandperson.com for articles and presentations on lake property succession and general estate planning





John Sumption
Conservation Committee Chair
Northern Waters Land Trust

Preserving
Your Property:
Conservation Easements





Perpetuity

Per Yogi Berra – a really long time

Conservation Easements

Definition

A voluntary legal agreement between a landowner and a qualifying conservation organization that perpetually limits uses of the land to protect its conservation values.





Conservation Easement – 200 ft.

Shoreline _____ 100 ft. _____ 200 ft. _____



Objectives: No development on the 200 feet **and** retention of open space



Conservation Easements

200 ft. lakeshore – capable of development/sale – full mkt. value per appraisal	\$ 450,000
Appraised value after permanent easement (land remains undeveloped in perpetuity)	(150,000)
<u>Result:</u> \$300,000 charitable tax deduction if conservation easement is donated	<u>\$300,000</u>



Conservation Easements

Conservation Easement may be donated: Charitable income tax deduction
- Also reduces value of property for federal and Mn. estate taxes

Conservation Easement may be sold:
Purchased by conservation entity to preserve environmentally sensitive property

Or part sale and part gift
(either bargain sale or split property into two transactions)





Conservation Easements

Conservation Purpose

- CE must have one of these four purposes to qualify for an income tax deduction:
 - Preservation for public recreation or education
 - Ecosystem protection
 - Open space preservation
 - Historic preservation
- Most undeveloped lakeshore parcels qualify for both second and third purposes



Conservation Easements

The Practicalities

- CE value determined by difference between two appraisals (before and after easement restrictions)
 - Cost of appraisals, legal documents and tax reporting associated with a charitable deduction are the responsibility of the landowner.
- Qualifying conservation organization easement holding requirements
 - Sufficient size or environmental sensitivity?
 - Priority ecological value? - Scoring systems to determine best projects with limited funding
 - Easement drafting, legal, monitoring, and defense cost – can be \$20-40k
 - Costs borne by landowner, local organization, or grants
- Landowner retains full ownership and uses of the property not restricted by the easement.
 - The terms and conditions are designed to meet the landowner's land use and estate planning purpose.
 - What about property taxes?
- Donation or sale of fee title ownership is also an option





John Sumption
Conservation Committee Chair
Northern Waters Land Trust

Why NWLT Needs Support



Why NWLT Needs Support

Funding Sources

Outdoor Heritage Fund Grants

- Substantial - \$2M to \$3M per year
- Restricted to specific parcel acquisitions

Individual donations

- Fund general operations, staff
- Outreach and education

Other special purpose funds

- Conservation Partners Legacy Grant
- Contract work with DNR, Crow Wing SWCD, and Minnesota Land Trust

Key Strategy of NWLT

Collaboration with local partners

- Lake Associations; SWCDs; Mn DNR
- County environmental services agencies
- Other non-gov. non-profit organizations





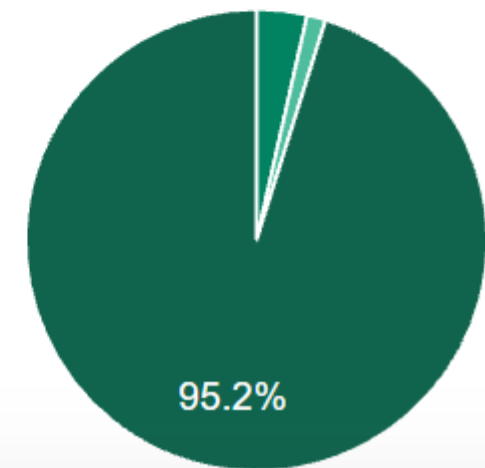
Program Expense Ratio

95.65%

Higher effect on score

Expenses FY2019

- Adminis...
- Fundrai...
- Program





Mike Burton
External Relations Officer
Initiative Foundation
- Little Falls

Methods of Supporting NWLT



Methods of Supporting NWLT

Become an annual supporter



Outright contributions

Retirees over age 70.5 years:

Use your IRA to make direct contributions

- Counts toward the annual Required Minimum Distribution (RMD)
- Avoids the IRA taxable income; more valuable than itemizing a charitable contribution



Methods of Supporting NWLT

Gifts of Appreciated Property

Stocks/Mutual Funds:

- Deduct full value
- Avoids capital gain on appreciation

Cabin or Forested Land: assuming no heirs or heirs not interested

- Bequest to NWLT (avoids any estate tax)
- Lifetime charitable gift (income tax deduction for full value)
- Charitable gift during lifetime with reserved lifetime use
- Sell portion to a third party; charitable gift of a portion to NWLT



Questions?



Thanks for Attending!



www.NorthernWatersLandTrust.org

Contact Information

Presenters

Andy Biebl

AndyBiebl@gmail.com

Derek Jensen

Derek.Jensen@edwardjones.com

Laura J. Hansen

Laura@breenandperson.com

John Sumption

Sumptionenv@gmail.com

Mike Burton

MBurton@ifound.org

John Vigen

JMVigen@ramslandvigen.com (Conservation Easement)

Northern Waters Land Trust

[Conservation Easements](#) - Annie Knight

AnnieK@nwlt-mn.org

[Donor Inquiries](#) - Elizabeth Mboutchom

ElizabethM@nwlt-mn.org



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- Preserving Land to Protect Water -

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