

# Succession Planning for Your Valuable Lake Property



Northern Waters Land Trust

June 2022





An aerial photograph of a large body of water, likely a lake or reservoir, with a dense forest of green trees along the shoreline. The sky is blue with scattered white clouds.

# Presentation & Zoom Logistics

Please mute yourself when joining Zoom

Type questions in the Zoom chat during  
the presentations.

(Staff will consolidate questions for the Q/A)

Slides 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
- **Lake Property Succession to the Next Generation**
  - Laura Hansen
- **Preserve your Property: Conservation Easements**
  - John Sumption
- **Why NWLT Needs Support**
  - Bob Karls
- **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

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- **Service Area:** Aitkin, Cass, Crow Wing, Hubbard
- **Prioritization Tool:** Protect environmentally-sensitive lakeshore and larger watershed parcels to create more resilient ecosystems to preserve water quality and wildlife habitat
- **Staff of Specialists**
- **Volunteer Board of Directors and Committees**
- **Non-profit** Sec. 501(c)(3) organization
- **Accredited Land Trust**





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: \$12 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: \$16,000 annual exclusion per donee; excess consumes \$12M estate exemption
  - Minnesota: No gift tax!

## Tax Barriers to Transfers to Heirs





# Tax Barriers to Sale

## Sale (the Income Tax Barrier)

- Sale post-death: (Example: Sale by estate – to Child #2)
  - Tax cost = market 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 cap. gain rates: 0% < \$83K joint taxable income; 15% from \$83K to \$517K; 20% on excess (+ 3.8% over \$200K single/\$250K joint)
  - Minn. rates: 7 - 8%, but 10% over \$285K income
  - Example: \$500K gain ~ 26-29% combined rate; \$1M gain ~ 33% rate





# Income Tax on Sale: Example

Sale of Cabin during Lifetime to Child #2		Cash Flow
• Sale Price	\$800,000	\$800,000
Less accumulated tax cost	<u>(300,000)</u>	
• Taxable gain	<u>\$500,000</u>	
• Federal tax (est. ave. 18%)	\$90,000	
• Minn. tax (est. ave. 9%)	<u>45,000</u>	<u>(135,000)</u>
Net Proceeds after tax		\$665,000





# Tax Barriers to Sale

## **Bargain Sale to family member:**

Sell at less than FMV (part gift – part sale). Gift portion comes “off the top.” Result is smaller capital gain to seller (i.e., full tax basis remains to offset sale proceeds).

## **Principal residence gain exclusion:**

- If cabin is seller’s principal residence, first \$250K of gain is excluded (\$500K if married/joint)
- Exception: Seasonal/nonresidential use prior to converting to principal residence – a portion of the gain remains taxable

Strategies to  
reduce capital  
gain tax cost





# Tax Barriers to Sale

## **Installment Sale:**

Seller-Financed to spread gain over multiple tax years to use lower federal 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



# No Plan for your lakeshore property?

## No 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 Generation”

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- 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 Transfer On Death Deed (TODD)
- Cabin Trust
- Limited Liability Company (LLC)





# Considerations for each type of transfer to the Next Generation

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- **Lifetime gifts:**

- Do not get the 'step up'
- Apply towards federal estate tax exemption
- Control goes to the Next Generation owners at the time the gift is made

- **Joint ownership in Title:**

- Next Generation owners have a certain amount of control; add complexity (mortgages, for example)
- They 'bring their life to the asset', including death, divorce, bankruptcies, & liabilities
- No agreement or structure in place

- **Outright gift upon death**

- Benefit of 'step up'
- No structure in place for joint ownership among members of 'Next Generation'





# Cabin Trusts

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## Advantages of Cabin Trust:

- Goal is to keep lake property in family for a period of time
- Allows you to establish and lock in terms of ownership and use
- Works best with a strong leader who will act as trustee and when there's less interest in management or responsibility of ownership by other family members
- Control timing of transfer to manage tax implications
- If sold, proceeds will be distributed to beneficiaries pursuant to terms of the trust, and equally, if desired

## Disadvantages of a Cabin Trust:

- A trust may not last forever; rule against perpetuities
- Inflexible; neither Trustee nor beneficiaries may change terms
- Burden of management and ownership falls on Trustee
- Requires additional funding to pay costs of ownership



Photo Credit: Pat Kullberg





# Cabin LLC

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## Advantages of Cabin LLC:

- Goal is to keep lake property in family long-term and potentially forever; an LLC may exist in perpetuity; may control timing
- Allows 'Next Generation' of owners and beyond to establish the terms of shared use and ownership with Operating Agreement
- Members of the LLC may modify terms of shared ownership over time; offers great flexibility and a democratic process
- Works best when family members are responsible, communicate well, and get along with each other
- Additional funding not required; costs of ownership are paid for by the members of the LLC

## Disadvantages of Cabin LLC:

- Requires communication, participation, financial means, and plain hard work on the part of the members
- May increase insurance costs; property taxes; annual renewal required





# 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 lake property, and do they want to own it together?

## Next Steps:

- Have a discussion with the Next Generation to determine their interest
- Consider what may be the best structure and timing to meet your goals
- Talk to your tax and legal advisors; visit our website: [www.breenandperson.com](http://www.breenandperson.com) for informative and helpful articles on lake property succession and 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

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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

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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

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**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**





Bob Karls  
Board Chairperson  
Northern Waters Land Trust

## Why NWLT Needs Support





# Why NWLT Needs Support

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## 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



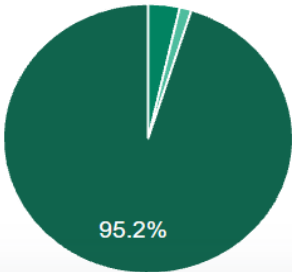
# Program Expense Ratio

95.65%

Higher effect on score

Expenses FY2019

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





# 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

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## 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](http://www.NorthernWatersLandTrust.org)

# Contact Information

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# Northern Waters Land Trust

*- Preserving Land to Protect Water -*

Cabin Succession Planning Workshop  
June 2022

