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Establishing Your Community Farm Trust Legal Tools and Comparative Models

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Executive Summary

This report is meant to address two voids in current Canadian land trust literature; first this report provides a legal framework for British Columbian farmers interested in establishing a trust to protect their “working landscapes” and secondly this report describes and evaluates models and experiences of successful urban land trusts from across North America, with specific attention to agricultural land trusts in British Columbia.

In general, *community land trusts* (CLTs) are private, charitable organizations with the primary role of protecting land under stewardship agreements, covenants and other restrictive legal tools.

Conservation land trusts are the fastest growing segment of the conservation movement in North America today¹, and are an excellent vehicle for strengthening local community involvement in conservation issues.

Land trusts use a variety of approaches to achieve their land conservation objectives including:

- ◆ purchase of threatened lands;
- ◆ encouraging and accepting outright donation of lands;
- ◆ property management;
- ◆ acquiring conservation easements to secure permanent protection of landscape features without direct ownership;
- ◆ disposing of lands to an appropriate management agency (such as a government parks or wildlife agency);
- ◆ acquiring lands to resell with restrictions (usually in the form of conservation easements or lease agreements);
- ◆ working cooperatively with landowners through private land stewardship programs;
- ◆ providing environmental education;
- ◆ providing training and assistance to local organizations (e.g., large staffed trusts give advice to smaller, newly formed organizations);
- ◆ carrying out evaluations to determine landscape conservation priorities

¹ Melissa Watkins and Stew Hilts (2001). *Land Trusts Emerge as an Important Conservation Force in Canada: A Summary of Land Protected by Land Trusts and the Current Issues and Challenges Facing the Growing Land Trust Movement in Canada*. Prepared for Land Trusts in Canada Conference. Guelph, Ontario. Online at: <http://www.uoguelph.ca/~claws/conference/landtrustsincanada.doc> [Watkins et al.]

- ◆ advocating protection priorities to government and/or;
- ◆ raising funds through private donations or government funding programs²

This report explores the legal tools and comparative models which may be helpful in establishing your *community farm trust*, a CLT applied to protect the working agricultural landscape.

The report is split up into four sections; the first section provides a framework from which to implement a land trust; the second section compares land trust governance strategies; this is followed by a brief comparison of emerging corporate governance strategies for land protection and use; and finally the fourth section, an appendix, provides the necessary sample documentation for establishing both a trust and a corporate organization.

² Watkins et al, supra note 1.

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NOTE: this report was not written by a lawyer, and is intended to provide general information about organizational structures for land trusts in British Columbia, Canada. This information is not legal advice and is only a summary of a complex topic. Because of this, and because laws constantly change, there may be innacuracies. Please seek appropriate legal advice when making decisions in this area.

Introduction

According to the 2006 Statistics Canada's Census of Agriculture, in the past five years over 17,000 farms have disappeared from the Canadian landscape³. This decline is due in part to the combination of an increasing number of Canadian farmers leaving the farming practice while high prices for agricultural land prevent young individuals from entering the business. This continuing trend threatens the long term survival of agriculture throughout British Columbia.

There are several tools available to help conserve agricultural lands and ensure that it is made available to interested farmers. This paper will focus its attention on a land trust model and very briefly on a corporate model of conservation.

What is a land trust?

A land trust is generally a non-profit, charitable organization committed to the long-term protection of natural and/or cultural heritage. A land trust may own land itself, or it may enter into conservation covenants with property owners to protect or restore features of the land. Land trusts also engage in stewardship, restoration and management of lands. The words "land trust" and "conservancy" are often used interchangeably⁴.

Land trusts use a variety of approaches to achieve their land conservation objectives including:

- ◆ purchase of threatened lands;
- ◆ encouraging and accepting outright donation of lands
- ◆ property management;
- ◆ acquiring conservation easements to secure permanent protection of landscape features without direct ownership;
- ◆ disposing of lands to an appropriate management agency (such as a government parks or wildlife agency);
- ◆ acquiring lands to resell with restrictions (usually in the form of conservation easements);
- ◆ working cooperatively with landowners through private land stewardship programs;

³*The Daily: 2006 Census on Agriculture: Farm operations and operators* (May 16, 2007: Statistics Canada 2006 Census on Agriculture). Online at <http://www.statcan.ca/Daily/English/070516/d070516a.htm>

⁴ The Land Trust Alliance of British Columbia, *What is a Land Trust?* Online at: <http://www.landtrustalliance.bc.ca/abouttrusts.html>

- ◆ providing environmental education;
- ◆ providing training and assistance to local organizations (e.g., large staffed trusts give advice to smaller, newly formed organizations);
- ◆ carrying out evaluations to determine landscape conservation priorities;
- ◆ advocating protection priorities to government and/or;
- ◆ raising funds through private donations or government funding programs⁵.

This report provides examples of land conservation tools, with the hope to provide insight into the variety of models which may be available in the context of protecting the working farm landscape and the agricultural culture of a community.

Perhaps the most important aspect of CLT designation is ensuring that the organizing body can maintain effective governance. The CLT is a community organization, and as such, must reflect the values of its specific community while upholding the legal requirements essential to its existence. This paper provides a overview of governance regimes from across Canada and the United States which may be applied to emerging agricultural land trusts in BC.

Advantages and Disadvantages of a Land Trust⁶

As a conservation tool, a land trust has a number of advantages. Land trusts are flexible: they are able to negotiate with landowners discreetly, confidentially, and quickly; and, because they are smaller with fewer procedural requirements, they can generally act more quickly than government agencies. A land trust is not subject to changing political influences and policies. Financially, most land trusts operate as charitable, non-profit organizations, which provide income tax savings for those contributing cash and for those donating land or buildings. As locally based organizations, land trusts have a familiarity with, and a loyalty to, the local area. As such they are able to draw on local volunteers and other community resources; are able to gain the trust and confidence of local landowners; and are able to maintain control over land and natural resources at the community level.

As private conservation organizations, land trusts also have a number of disadvantages. Many land trusts struggle financially and are forced to put a considerable amount of time and energy into fund-raising for the continued operation of the organization. For this reason many smaller trust projects partner

⁵ Watkins et al, supra note 1.

⁶ M.J. Salomons, Discussion Paper : Establishing an Edmonton Regional Land Trust. Commissioned by the Land Stewardship Centre of Canada (August 2004). Online: http://www.landstewardship.org/EdmontonLandTrustReport_000.pdf.pdf

with large conservation groups such as The Land Conservancy of BC, Islands Trust, or the Lands Trust Alliance of BC.

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SECTION I
Legal Tools: Creating a Land Trust

Legal Tools: Creating a Land Trust

Creating a land trust is in fact not difficult. The difficulty arises in determining how to effectively govern your organization for the purposes you envision, especially in the case that the subject land is protected within the Agricultural Land Reserve.

A Land Trust can be set up by a group eligible to form a non-profit society or organization (see: *Establishing your Society*). General information regarding each of these steps is provided in the following sections. However, consult a lawyer before making any decision.

Steps in the Formation of a Land Trust⁷

1. Draft a mission and statement of purpose with clear objectives.
2. Consider your statement of purpose in the context of Canada Revenue Agency (CRA) regulations for charitable organizations.
3. Decide about membership and management options.
4. Recruit people with the goals and skills you need (both for the founding board and for future volunteers or staff).
5. Become familiar with the *Societies Act*, draft a constitution and bylaws.
6. Apply for incorporation under the *Societies Act*.
7. Make application to CRA for Charitable status.
8. Apply for general designation to hold Conservation covenants.

⁷ The Land Trust Alliance of British Columbia, *About Forming a New Land Trust*. Online: <http://www.landtrustalliance.bc.ca/forming.html>

A Note on the Agricultural Land Reserve

The Agricultural Land Reserve (ALR) is a provincial zone in which agriculture is recognized as the priority use⁸. Farming on these lands is encouraged and non-agricultural uses are controlled⁹.

If the land that a community group wants to manage is in the BC Agricultural Land Reserve, special constraints may apply regarding such things as housing and the applicability of conservation covenants. Rules for covenants, housing and leasing on ALR land are generally described in the following sections.

Note that the *Farm Practices Protection Act* (Right to Farm Act)¹⁰ is complementary to the ALR farm land preservation program. This Act, which came into effect in 1995, gives farmers the right to farm in the ALR and on land zoned for farm use and does not permit restrictions on farming that land.

⁸ Provincial Agricultural Land Commission, *About the Agricultural Land Reserve* (2002: Province of British Columbia). Online: http://www.alc.gov.bc.ca/alr/alr_main.htm

⁹ Ibid.

¹⁰ *Farm Practices Protection (Right to Farm) Act* [RSBC 1996] c. 131. Online: http://www.qp.gov.bc.ca/statreg/stat/F/96131_01.htm

Housing Opportunities on ALR Lands

Within the Agricultural Land Reserve, housing is considered secondary to the primary purpose of the land's agricultural use. For this reason the ALC permits only one single family dwelling on each land registry parcel.

Housing on Reserve land is considered in both the Agricultural Land Commission Act and the Regulations and Policies of the Commission.

The following provides an informal summary of key provisions concerning housing within the Reserve. It should be remembered that in all cases, local bylaw regulations and other Provincial legislation concerning housing must be observed and that legal consultation should be obtained.

SUMMARY:	
• One home per legal parcel	Yes
• Additional home(s) for farm help	Possible
• Temporary placement of a mobile home for a relative	Possible
• Must observe other local and Provincial regulations associated with housing	yes

Agricultural Land Commission Act

Section 18(a)(ii):

Unless permitted by this Act, the regulations or the terms imposed in an order of the commission,

(a) a local government, a first nation government or an authority, or a board or other agency established by a local government, a first nation government or an authority, or a person or agency that enters into an agreement under the Local Services Act may not

(ii) approve more than one residence on a parcel of land unless the additional residences are necessary for farm use¹¹

¹¹ Agricultural Land Commission Act, SBC 2002, c.36, s. 18(a)(ii), [ALC]. Available online: http://www.qp.gov.bc.ca/statreg/stat/A/02036_01.htm

Residences Necessary has been defined by the ALC as residences determined to be necessary for farm use¹². Necessity will depend largely on the size and type of farming operation. For example, where the farming operation is large and it is miles away from a population centre, several homes may be deemed as necessary to house additional farm workers. In contrast, farming operations in close proximity to urban centres which provide a range of housing options, will most likely provide a reasonable alternative to additional farm residences.

Where necessity is demonstrated the municipality or regional district may issue a permit without application to the ALC.

Section 23(2):

Restrictions on the use of land in the ALR do not apply to land lawfully used for a non-farm use, if it was established and carried on continuously for at least 6 months immediately prior to December 21, 1972¹³.

In the case of housing, a parcel holding more than one dwelling prior to December 21, 1972 may continue indefinitely despite the fact that the additional dwelling may not be associated with a farm operation. However, where the additional dwelling(s) is not necessary for farm use, it is treated as a non-conforming use and its replacement in the case of fire, removal or other destruction would require the approval of the ALC¹⁴.

BC Regulation 7/81

Section 2(1)(c):

The following land uses are permitted in the ALR:

(c) construction of one single family dwelling unit and accessory buildings and structures including ancillary service and utility installations and connections, per land registry parcel¹⁵.

¹² Agricultural Land Commission Policy #8, *Permitted Uses in the ALR: Residential Use*, March 2003 see online: http://www.alc.gov.bc.ca/publications/planning/Planning_For_Agriculture/Chapter09/09021reference.htm#Addition alDwellingsForFarmHelp.

¹³ ALC, *supra* note 11, s. 23(2).

¹⁴ See: Agricultural Land Commission, *Agricultural Issues and Opportunities*, s. 21(2) discussion. Online: http://www.alc.gov.bc.ca/publications/planning/Planning_For_Agriculture/Chapter09/09021reference.htm#Addition alDwellingsForFarmHelp.

¹⁵ Agriculture Land Commission, *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*, B.C. Regulation 171/2002, s. 2(1)(c).

Order # 1622/83:

One mobile home may be placed on a parcel of land where there is no more than one single family dwelling, provided that:

- a. the mobile home is inhabited by a relative of the parcel's principal dwelling or is for a person paid to work on the farm;*
- b. the mobile home is not on a permanent foundation with a basement;*
- c. the mobile home is removed within 90 days;*
- d. maximum additions to the mobile home = 24 sq. m¹⁶.*

¹⁶ Agricultural Land Commission, *Agricultural Issues and Opportunities: Housing in the ALR: The Basics*. Online: http://www.alc.gov.bc.ca/publications/planning/Planning_For_Agriculture/Chapter09/09021reference.htm#Addition alDwellingsForFarmHelp.

ALC Guidelines for Covenants in the ALR

According to section 22(2) of the Agricultural Land Commission Act:

"A covenant that prohibits the use of agricultural land for farm purposes has no effect until approved by the commission¹⁷."

This provision grants specific authority to the Commission to review and approve or reject covenants that may effectively prohibit agricultural use of Reserve land. As such the Commission has developed a number of guidelines to facilitate the development of acceptable covenants.

The following guiding principles are observed by the Commission when reviewing proposed covenants in the ALR:

SUMMARY¹⁸:
<ul style="list-style-type: none">• The Commission may support covenants that place reasonable restrictions on agriculture in order to protect important environmental values
<ul style="list-style-type: none">• Where important environmental values exist, covenants restricting agriculture should be focused on areas specifically identified and should not unduly restrict agriculture elsewhere on the property
<ul style="list-style-type: none">• The Commission is more likely to support covenants that provide benefits to agriculture (i.e.: limiting number of residences)

Proposals for covenants referred to the ALC must provide "an appropriate level" of scientific evidence¹⁹. The Commission will give additional consideration to current statutory provisions aimed at protecting specific habitats or species²⁰. It should be kept in mind that the Commission has refused to approve conservation covenants that protect conservation values, but that may restrict potential future agricultural uses.

¹⁷ ALC, *supra* note 11, s. 22(2).

¹⁸ The Agricultural Land Commission, *Guidelines for Conservation Covenants in the ALR* (December 2003). Online: http://www.alc.gov.bc.ca/legislation/policies/Guidelines_convenants_Dec03.pdf

¹⁹ The Agricultural Land Commission, *Guidelines for Conservation Covenants in the ALR* Guideline 3(1) (December 2003). Online: http://www.alc.gov.bc.ca/legislation/policies/Guidelines_convenants_Dec03.pdf

²⁰ The Agricultural Land Commission, *Guidelines for Conservation Covenants in the ALR*, Guideline 3(3) (December 2003). Online: http://www.alc.gov.bc.ca/legislation/policies/Guidelines_convenants_Dec03.pdf

It is evident by the above parameters that restrictive covenants which unduly restrict agriculture for reasons outside of conservation will generally not be accepted by the ALC. Covenants in respect of production methods, such as mandating organic farming methods, will not likely be approved of by the Commission unless other scientific conservation issues are at stake.

It may, however, be possible to include a reference to stewardship respecting the use of the lands in a lease(see Leases & Stewardship).

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Procedure to Obtain Consent for Covenants in the ALR²¹

1. An individual interested in registering and holding a covenant on ALR lands must first apply to the BC Surveyor General, Ministry of Sustainable Resource Management. Information may be found through:

<http://srmwww.gov.bc.ca/sgb/conservation/index.htm>

2. Prior to registering a covenant affecting lands within an ALR, registered and nonprofit organizations, societies or persons must first obtain the consent of the Agricultural Land Commission. This consent is obtained by referring the proposed covenant to the Commission at:

133-4940 Canada Way
Burnaby BC V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033

3. Early referral to the Commission is recommended so that any information gaps may be identified and filled and any contentious issues can be resolved, well in advance of the proposed registration with the Land Title Office.
4. When Commission consent is obtained, the covenantee or covenantor may register the covenant against the title in the appropriate Land Title Office.

Please visit the Commission website at www.alc.gov.bc.ca for further information regarding what information must be provided in referring your proposed covenant to the ALC.

Note that The Land Conservancy has experience with attempting to place conservation covenants on ALR land.

²¹ The Agricultural Land Commission, *Guidelines for Conservation Covenants in the ALR, Referral Procedure* (December 2003). Online: http://www.alc.gov.bc.ca/legislation/policies/Guidelines_convenants_Dec03.pdf

Leasing ALR Lands

Section 73.1 of Bill 35, *The Miscellaneous Statutes Amendment Act, 2007*²², ensures that long term lease agreements regarding unsubdivided lands are enforceable between parties even if the leases do not comply with the subdivision and registration requirements of section 73 of *The Land Titles Act*²³.

This amendment makes it easier for farmers to access and lease unused portions of their land without having to subdivide the property²⁴. The amendment also provides opportunities to new farmers to farm land which may not have been financially feasible when farming options were restricted to the outright purchase of a plot.

Long term lease arrangements also provide leasee's with *tenure*. Tenure is simply the right to hold land. This right is weak in leases of short duration; a tenant with a short term lease is not generally motivated to make investments or changes to the property that will primarily benefit the land owner. A leasee who holds a lease of long duration, however, is likely more willingly to make investment on the land to aid in the long term farming objectives for the property. This change may make it easier for a community organization to own land and lease portions of it to working farmers.

When drafting a lease, or when considering any decision regarding your property, legal consultation is essential, however, the following general aspects should always be considered:

Agricultural Lease Checklist

- | | |
|---|---|
| 1. Who are the parties? | 9. How will costs for repairs and maintenance be allocated? |
| 2. What is the lease term? | 10. How will costs for capital improvements be allocated? |
| 3. Is the lease renewable? | 11. How will capital improvements be compensated? |
| 4. When must rent be paid? | 12. Is there a separate residential lease? |
| 5. Is there authority to act if the landowner is an entity? | 13. What are the restricted uses of the property? |
| 6. Who will be responsible for insurance? | 14. What occurs when one party defaults? |
| 7. If the lease is terminable how much notice is required? | 15. What actions will constitute default? |
| 8. Does the lease include a description on the property? | 16. Will the lease include a dispute resolution process |

²² Bill 35 – *Miscellaneous Statutes Amendment Act (No. 2)*, 2007, May 16, 2007 Royal Assent, 73.1.

²³ *Land Title Act*, RSBC 1996, c. 250.

²⁴ Ministry of Agriculture and Lands, *Amendments Enhance Opportunities for Farmers* (News Release: June 23, 2007).

Lease Agreements and Stewardship

Stewardship is the personal responsibility to take care of another person's property in an intended manner. Unlike a restrictive covenant, which runs with the land and binds successors in title, a reference to stewardship in a lease will only be enforceable between the parties to the agreement²⁵. Regardless of this limit, the ability to include restrictions or stewardship clauses within a lease may offer an opportunity to community organizations, as farm land owners, to restrict uses and activities on the land (see appendix).

While the freedom to contract is one of the basic and underlying values of the common law it is very important that in constructing a lease or other agreement, independent legal advice is obtained.

²⁵ See: Erika Knudsen and the Land Trust Alliance of BC, *Protection of Land with Agricultural Uses* (April 2003), Online: <http://www.landtrustalliance.bc.ca/docs/agriculture.doc>

Legal Entities

There are several legal entities that can hold title to land including an individual, a corporation, a charitable organization, a society and a cooperative. This report intends to solely address the societal and cooperative structure. Regardless of the land holding arrangement you select, obtaining independent legal advice is imperative to protecting your interest.

Before delving into the differences between a society and a cooperative, mention should be made to charitable status. Classification as a charitable organization brings with it several potential benefits, the most notable is that of tax benefits.

The law in Canada requires that to qualify as a charitable organization an entity's purpose must fall within one of the following four categories:

1. advancement of religion;
2. advancement of education;
3. relief of poverty; or
4. other purposes beneficial to the community²⁶

While several of the land trusts described in Section II have charitable status, it remains difficult to achieve this designation in Canada. A land trust which, for example, provides information that is not set in a formal and complete structure like a school probably will not succeed under the head of "advancement of education". Likewise a land trust whose goal is the production of food to benefit its members will not generally qualify under the last head of benefit to the community.

If there is a commercial nature to your land trust it is doubtful whether the activity would satisfy the elements of a charity. A community land trust that grew food to donate to the poor might qualify; a similar organization that produced commercial food would have problems qualifying.

Societies

A society is a not-for-profit organization that is incorporated as a legal entity²⁷. A non-profit organization must not be organized for a commercial purpose. A commercial purpose is any operation trying to make money by selling goods and services to the public.

²⁶ *Income Tax Commissioner v Pemsel* [1891] AC 531

²⁷ A legal entity is permitted to enter into contracts, carry debt and incur liability, separate from that of its directors.

A not-for profit organization cannot be organized for the benefit of members personally as investors. Any funds which are generated by the not-for-profit organization must be used only for the purposes of the society itself including paying the costs of operation and other expenses.

Societies and Incorporation

Citizen associations are not required by law to incorporate but there are several benefits to incorporation. The following provides an informal summary of key advantages and disadvantages to incorporation. It should be remembered that in all cases of incorporation, legal consultation should be obtained.

ADVANTAGES TO INCORPORATION²⁸:
<ul style="list-style-type: none">• Incorporated society is a separate legal identity
<ul style="list-style-type: none">• Corporation can enter into contracts/leases
<ul style="list-style-type: none">• Members are generally shielded from liability in their personal capacity
<ul style="list-style-type: none">• Formal structure of corporation facilitates ongoing operation
<ul style="list-style-type: none">• Formal structure of corporation increases the operation's credibility
<ul style="list-style-type: none">• Formal structure facilitates membership issues

DISADVANTAGES TO INCORPORATION²⁹:
<ul style="list-style-type: none">• Annual corporate filing
<ul style="list-style-type: none">• Formal structure does not allow flexibility
<ul style="list-style-type: none">• Costs (see Appendix)
<ul style="list-style-type: none">• Assumed corporate values may not reflect community values

As displayed above, a main advantage to societal incorporation is that the society takes on a separate and independent identity distinct from that of its membership and, as a result, generally limits personal liability. In addition, the society's identity ensures unlimited life expectancy not dependent on the continuing service of its current directorship.

²⁸ Small Business BC, *Pros and Cons of Incorporating*. Online: <http://www.smallbusinessbc.ca/bizstart-prop.php#incorporating>

²⁹ Small Business BC, *Pros and Cons of Incorporating*. Online: <http://www.smallbusinessbc.ca/bizstart-prop.php#incorporating>

The main disadvantages result from a corporation's formal structure which mandate annual filings and notices of structural changes.

Co-operatives

Cooperatives (co-ops) differ from traditional businesses in that they are owned and democratically controlled by the people who use their services³⁰. Co-ops operate on the democratic principle of *one member- one vote*, regardless of the number of shares owned by any one individual³¹.

The following provides an informal summary of key principles of a cooperative. If you are interested in establishing a cooperative, independent legal advice should be sought for your particular circumstances.

CO-OP PRINCIPLES³²:
<ul style="list-style-type: none">• Voluntary membership: all persons using services must be willing to accept the responsibilities of membership
<ul style="list-style-type: none">• Democratic membership control: one-member-one-vote
<ul style="list-style-type: none">• Economic participation by membership: members contribute to the capital of the co-op (usually the common property) and surplus revenue is distributed among membership according to contract
<ul style="list-style-type: none">• The coop is independent and autonomous: no contract should place the co-op under the authority of another entity
<ul style="list-style-type: none">• Co-ops provide education, training and information to the public
<ul style="list-style-type: none">• Co-ops reflect concern for the community and work towards community sustainability

Co-op Membership Responsibility

A co-operative often involves an agreement to pool the purchasing power of community members to obtain a good or service that the individual might not otherwise be able to afford.

In the case of farmland, a co-op could provide a structure to pool revenue for the purchase of large plots of land which are large enough for a number of individuals to farm, but too expensive for one individual to purchase.

³⁰ Small Business BC, *Society and Other Legal Structures: Cooperative*. Online: <http://www.smallbusinessbc.ca/bizstart-society.php>

³¹ Ibid.

³² The British Columbia Co-operative Association, *The Seven Cooperative Principles*. Online: <http://www.bcca.coop/about/principles.htm>

Along with membership in a co-op, an individual must also willingly accept any number of contracted responsibilities. For example, in the case of a cooperative whose purpose is to maintain a working landscape a responsibility could include the restriction that the land must be used for farming purposes only or maintaining certain plots of communal land.

Financing your Co-operative Organization³³

The main benefit of a cooperative is its community connection. This community base ensures that a majority or investment in and surplus from the coop stays within the community.

There are five main ways to finance your coop:

1. Selling shares;
2. Accepting loans from members;
3. Collecting fees from members;
4. Borrowing from other sources (venture capital, financial institutions).³⁴

Co-operative Models

In the case of a farmland trust cooperative, the consumer and marketing co-op models are particularly useful.

Consumer Co-op: A consumer co-operative helps members use their combined purchasing power to buy goods and services they need.

Marketing Co-op: A classic agricultural co-op, one that provides a forum for the sale of a farmer's crop, is what is classified as a marketing coop. In a marketing coop a member's use of the cooperative is measured by what is sold directly to or through the cooperative as opposed to what is bought from it.

Incorporating a Cooperative

You are not required to incorporate as a co-op to run your business cooperatively, however, if you decide not to incorporate you cannot carry out business as a co-operative³⁵ (see also Advantages and Disadvantages to Incorporation, above).

³³ See BC Co-operative Association, *BC Businesses Co-operatives: A Start Up Guide*. Online: <http://www.bcca.coop/about/starting.htm>

³⁴ Ibid.

³⁵ *Government of British Columbia, Incorporating a Cooperative Association in British Columbia Overview*. Online: <http://www.fin.gov.bc.ca/registries/corppg/forms/guide.pdf>

Incorporation of a British Columbia Society³⁶

The following provides an informal summary of the steps necessary to incorporate a society. Instructions and examples of Ministry of Finance requirements are provided as an appendix to this report (see Appendix). Before any decisions are made, please ensure to refer to the *Society Act*. Please note that this general information is not intended as legal advice.

By filing the necessary paperwork and paying the filing fees (see appendix), five or more individuals can form a society.

1. Name approval and reservation

The first step of incorporation is to ensure that your proposed name is available. The name request form as well as the Ministry of Finance instructions is provided as an appendix to this report.

2. Incorporation

Every society attempting to incorporate must have both a constitution and a set of bylaws as provided by the *Society Act*. Instruction and examples of constitutions and bylaws provided by the Ministry of Finance are provided as an appendix to this report.

3. Signing the Constitution and Bylaws

Bylaws must be followed by the date, signatures, full names and addresses of at least five applicants and witnesses to each name. Sample Constitutions and Bylaws are provided as an appendix to this report.

4. List of First Directors

The list of first directors form (Form 4) is provided as an appendix to this report. A complete form must include the full names and residential addresses of each director. Three directors are required to form a society and at least one director must be ordinarily resident in British Columbia.

³⁶ The following information is provided by the British Columbia Ministry of Finance and is available online at: <http://www.fin.gov.bc.ca/registries/corppg/forms/reg20.pdf>

5. Notice of Address of Society

The *Society Act* requires every society to have an address in British Columbia to which all communication may be sent and documents can be served. The Notice of Address for (Form 5) has been provided as an appendix to this report.

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Incorporating a Co-operative Association in British Columbia³⁷

The following provides an informal summary of the steps necessary to incorporate a cooperative. Instructions and examples of Ministry of Finance requirements are provided as an appendix to this report. Before any decisions are made, please ensure to refer to the *Cooperative Association Act*. Please note that this general information is not intended as legal advice.

By filing the necessary paperwork and paying the filing fees three or more individuals can form a cooperative.

1. Name approval and reservation

The first step of incorporation is to ensure that your proposed name is available. The name request form as well as the Ministry of Finance instructions is provided as an appendix to this report.

2. Incorporation

The following four documents must be filed at the Corporate Registry:

- a. Memorandum of Association
- b. Rules of Association
- c. List of First Directors
- d. Notice of Registered Office (Form 2)

The appropriate forms and models provided by the Cooperative Association Regulations are attached as an appendix to this report.

3. Filing Your Incorporation Documents

Submit the following to the Corporate Directory:

- a. Two signed and witnessed original copies of the Memorandum;
- b. Two signed and witnessed original copies of the Rules;
- c. The List of First Directors;
- d. The Notice of Registered Office; and
- e. A \$250 cheque to the Minister of Finance

³⁷ The following information is provided by the British Columbia Ministry of Finance and is available online at: <http://www.fin.gov.bc.ca/registries/corppg/forms/guide.pdf>

SECTION II
Comparing North American Land Trusts

Comparing North American Land Trusts

Any community group that wants to establish a community farm will need to agree upon a governance model. This section compares a number of North American land trusts. While the following examples are not restricted to agricultural trusts, their governance strategies may provide useful models to emerging land trusts in BC.

The following provides an informal summary of the governance models of selected existing land trusts. More details may be obtained from the trusts themselves.

	Purpose	Land Ownership	Governance	Accountability	Liability	Finance	Return on Investment	Charitable Status
Delta Farm	Preserve farmland	No	Board & committees	Non-profit society	Society Act protection	Donations, grants & endowment	No	Yes
Fraser Valley	Forest and agriculture	Held by the city	Board	Non-profit society	Society Act protection	Donations, grants & endowment	n/a	Yes
Genesis Trust	Affordable agriculture	Yes-leaseback	Board	Non-profit corporation	Corporate	Donations, religious affiliations	Yes- case by case basis	Yes
Indian Line	Maintain working farm	Yes-leaseback	Board guided by lease	For-profit corporation	Corporate	Share purchases	Yes	No
Islands Trust	Protect Islands Trust area	Occasionally	Local government	Constituents	Carries separate insurance	Tax levies	Yes- dependent on term of lease	No
Keating Farm	Protect working farmland	Yes- 99 year lease	Co-op	TLC	Lease agreement protects TLC	Membership fees	Yes	No
Linnaea Farm	To promote ecological stewardship	Yes-covenant held by TLC	Resident stewards & Board	Non-profit society and for-profit co-op	Society Act protection	Tuition	No	Yes
Long Point	To work with land owners to protect ecological areas	Yes	Skill based Board	Subscriber to OLTAs <i>Standards and Practices Code</i>	Corporate	Donations and fees for educational programs	Land provided at discount to take improvements into consideration	Yes
New Brunswick	Maintain productive lands	Yes-leaseback	Board	Society, Bylaws provide for sustainable practices	Society	Unavailable	Unavailable	Yes

Ontario Farmland	Preserve the availability of farmland	Occasionally	Board	Non-profit society	Corporate	Donations & grants	Unavailable	Yes
Savary Island	Reduce Savary Island density	Yes	Board	Non-profit society	Society Act protection	Donations & grants	No	Yes
Southern Alberta	Ranch conservation	No	Board	Non-profit Society	Limited Liability	Donations, grants & endowment	No	Yes
TLC	Protection of habitat	Yes	Separate regions	Board	Society Act	Membership fees	Yes	Yes

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Fraser Valley Conservancy

Purpose

The purpose of the society is to forever protect important natural areas, historical and cultural sites, and other lands of community importance for the benefit of Fraser Valley residents. Their focus is on land with ecological significance, forest land, green space, and land based agriculture³⁸.

Land Ownership

The Fraser Valley Conservancy primarily holds covenants on land and does not directly hold title.

Governance

The Fraser Valley Conservancy, originally known as The Abbotsford Land Trust Society, is a locally based, nonprofit charitable organization formed in 1997 through a partnership between the City of Abbotsford and the Abbotsford Community Foundation. A Board of Directors, all of whom come from the Abbotsford Community Foundation, governs the Land Trust. Initially, before proper legislation for the Land Trust was in place, land donated to the Land Trust was held by the City and managed by the City's Parks Department.

Accountability

Not available.

Tools Used

The Fraser Valley Conservancy primarily holds covenants on land and promotes individual stewardship.

Liability

In certain circumstances a Society's Directors may be held liable for their actions. This can usually be dealt with by purchasing Director's insurance.

³⁸ For more information about Fraser Valley Conservancy visit: <http://www.fraservalleyconservancy.ca/>

Financing

The Abbotsford Land Trust Society is currently supported by the Abbotsford Community Foundation, the City of Abbotsford, the Abbotsford Soil Conservation Association and Central Valley Naturalists. In addition, grants have been provided by EcoAction Community Funding, the Real Estate Foundation of BC, Unilever Stewardship, the Vancouver Foundation and VanCity Credit Union.

In addition, The Fraser Valley Conservancy has established its own Endowment Fund with the assistance of the Abbotsford Community Association. Interest earned from the fund is used to sustain the organization while the principal sum is maintained, ensuring some level of interest in perpetuity. The larger the endowment the more interest the Society is to put towards core projects

Funding is also received through membership fees which provide tiered amounts for different methods of support.

Return on Investment

Not applicable.

Charitable Status

The Fraser Valley Conservancy is a registered charity designated as for recreation, playgrounds and vacation camps

Genesis Land Conservancy

Purpose

The Genesis Land Conservancy is a registered charity and non-for-profit corporation based in Saskatchewan, dedicated to assisting new farmers in earning a livelihood on farmland and promoting sustainable farming practices. It is a faith-based initiative, originally conceived by local religious orders as a way to pursue Christian principles of justice and stewardship³⁹.

Land Ownership

Rather than using covenants, Genesis generally holds title to trust land and leases it to eligible farmers. Lease arrangements encourage young farmers to enter farming without incurring massive debt. The leases generally provide for a term equal to that of the farmers lifetime or 99 years.

In addition to land purchases, Genesis receives land title through charitable and testamentary gifts.

Genesis also uses tools such as:

- a. **Joint Ownership Arrangements:** Joint ownership is a legal arrangement which provides for two or more individuals to hold title to land. This arrangement must be documented at the Land Title Registry. In this case, legal title of the land would be held by both the original owner and the Genesis Land Conservancy. During the course of the individual's lifetime he may continue to live and work the land, however, on his death an automatic right of survivorship will be triggered and Genesis will be the sole legal owner of the land.
- b. **Retained Life Interests:** This arrangement provides the original owner with what is referred as a *life interest* in the land and Genesis Land Conservancy with a *remainder interest* in the land. A life interest is a right of possession and occupation of the property during the lifetime of the individual or some other specified amount of time. A remainder interest provides for rights of occupation and possession of the property after the death of the life tenant.

³⁹ For more information on Genesis Land Conservancy visit: <http://www.earthcare.ca/genesis/about.html>

- c. Preferred Sale Arrangement: A preferred sale is a simple agreement that allows Genesis Land Conservancy to purchase land at less than fair market value. The difference between the market price and the sale price is seen as a donation to the organization and is tax deductible.

Governance

Genesis Land Conservancy is governed by an 8 member Board of Directors. Four directors are appointed from the founding religious orders, two are elected from among the general membership (including leasing farmers), and two are elected from among major donors. Major donors are those who have given a gift of a quarter section of land or \$50,000 at some point in the last five years.

Accountability

Genesis Land Conservancy is accountable to its Board of Directors.

Tools Used

The Genesis Land Conservancy makes extensive use of the tool of purchase and lease-back. Purchase and lease-back may be the most dramatic example of how land trusts can invest in working farms. Although Genesis restricts its practice to new farmers, lease-back arrangement can also help a struggling farmer in providing immediate capital investment, long-term security, and more capacity to earn a steady income while providing substantial ecological services (see Box 1).

Farmers wanting to lease Genesis land, however, must be “beginning farmers,” defined as having a net worth less than \$250,000 and a net farm income of \$20,000 or less and have a commitment to sustainable farming practices.

Box 1: Purchase and Lease-back Example

Farmer A is committed to high environmental standards, but is finding it difficult to make a living. She wants to maintain and expand the considerable ecological services her farm provides to the community, but the associated additional expense is placing her at an economic disadvantage relative to her competitors. She's also growing older and worried about how she can provide for her retirement and pass on the farm to her kids without subdividing the land. A land trust offers her a substantial amount of money for the farm, and offers to lease it back to her on a long-term basis. The land trust sees investing in this farm and this farmer as an excellent opportunity to meet its conservation goals. To ensure the farm is managed to high environmental standards, it wants to place restrictions in the lease. She happily accepts the offer and its conditions because it offers her an immediate capital investment in the farm. She'd like to use some of the investment to make improvements that will allow her to expand the range and quality of the ecological services her farm provides. She'd also like to invest some of it for her retirement. In addition, she believes she can now make a decent living off the land, and find a way to enable her kids to farm it after her

Liability

Due to its incorporation, the Genesis Land Conservancy is a separate legal entity at law, and as such individual members are generally not held personally liable for the debts and liabilities of the corporation. In certain circumstances, however, Directors may be held liable for their actions. This can usually be dealt with by purchasing Director's insurance.

In duplicating the Genesis Land Trust model of joint ownership or residual interest, a land trust should advise that the individual party obtain legal advice to ensure their interests are adequately met.

Financing

The Conservancy is a project of *Earthcare Connections Incorporated*, which operates other programs supporting sustainable agricultural and sound environmental practices. Earthcare is funded by the Roman Catholic, Ukrainian Catholic, Anglican, United, and Evangelical Lutheran Churches.

Because virtually all land titles held by Genesis have been assembled through donations, Genesis has not needed additional financing to purchase land.

Genesis does receive direct funding from annual membership fees which provide a right to vote at annual general meetings and to run for board positions. Members also receive a newsletter and information pertaining to events held by Genesis.

Marketing

A majority of land donations have their roots in religious affiliations. In addition marketing strategies include the extensive use of website documentation.

Return on Investment

Return of capital investments are handled on a case by case basis. Factors influencing the decision include: the length of the lease, size and nature of improvements, and the organization's/individual's history with the organization.

Charitable Status

The Genesis Land Conservancy is a registered charity. Its designation is that of support of schools and education.

Community Land Trust in the Southern Berkshires: Indian Line Farm

Purpose

The purposes of the Indian Line Farm (Massachusetts) are to preserve the first community agricultural farm in North America, maintain it as a working organic farm, protect the adjacent sensitive wetlands, and provide small-scale farmers access to affordable farmland⁴⁰.

Land Ownership

The Community Land Trust in the South Berkshires (CLTSB) primary function is to buy or accept gifts of land and lease it back to Indian Line farm members under a 99-year lease that is inheritable and automatically renewable.

In addition to the lease agreement between the Indian Line Farm and the CLTSB, there is also a Conservation Restriction (conservation covenant) held by the CLTSB against the title to the property which allows certain stated acts and uses to take place on the property but prohibits virtually all others.

The farmers of the Indian Line Farm have purchased the house, barn, and other buildings from the CLTSB, and will gain equity through any improvements made to the farm during their tenure. The Community Land Trust retains an option to purchase the buildings and improvements back, and to resell them at their replacement cost to another farmer.

Governance

The Community Land Trust of the Southern Berkshires is made up of members from the local community, and is governed by a Board of Directors elected by the membership. General membership meetings are held once a year to both address the business of the CLT and bring in relevant speakers to the community.

The Indian Line Farm does not have a formal governance strategy. Its operations are guided primarily according to the terms of the lease and the restrictive covenant.

⁴⁰ For more information about Indian Line Farm visit: <http://www.indianlinefarm.com/>

Accountability

The CLTSB is accountable to its Board of Directors and the Indian Line Farm is accountable to the CLTSB in regards to its uses of the land.

Tools Used

The CLT's primary function is to buy or accept gifts of land and lease it back to members under a 99-year lease that is inheritable and automatically renewable.

Financing

Financing is primarily achieved through community share purchases. Several varieties of shares are available for set prices. The purchase of a share provides the community member with a selection of produce and flowers. The length of share terms vary from summer months, months representing seasonal fruits and vegetables and terms representing a 32 hour working commitment to the farm.

Plots are leased and financed by individual farmers.

The Indian Line Farm has established the Indian Line Farm Fund, which provides financial assistance to community members interested, but financially unable, to purchase a share.

Return on Investment

The length of the lease of Indian Line Farm and its inheritable and renewing nature, provides tenure to members and incentives to invest in the land although capital will not be directly reimbursed through the South Berkshires Land Trust.

Charitable Status

The Indian Line Farm is a for-profit organization.

Islands Trust Fund

Purpose

The vision of the Islands Trust Fund is to create a legacy of special places in the Islands Trust Area, protecting both natural and cultural features forever. Special focus is given to fragile ecosystems which are at risk due to population growth and escalating development⁴¹.

Land Ownership

Occasionally, the Islands Trust Fund works with partners to raise funds to purchase ecologically significant lands in the Islands Trust Area.

Governance

The *Islands Trust Act of British Columbia*, established the Islands Trust as a governance structure to regulate land use in the Gulf Islands⁴². The trust is a unique federation of independent local governments which plans land use and regulates development in the trust area. Island communities elect their local representatives every three years.

There are two local trustees elected for each group of islands designated as a local trust area. Together, with an appointed chair from the Executive Committee, local trustees are responsible for land use decisions within their respective local trust area. Each local trust committee has land use jurisdiction over a major island, plus smaller islands and surrounding waters. This structure ensures that land use decisions are made by the locally elected people who are part of each island community.

In total there are 26 trustees, including two municipal trustees from Bowen Island Municipality. These trustees form the Islands Trust Council, which makes decisions about overall policy, staff resources and budgets and has broad responsibilities to uphold the Islands Trust's mandate. The council meets four times a year in various locations within the trust area. All meetings are open to the public.

⁴¹ For more information on Islands Trust visit: <http://www.islandstrust.bc.ca/>

⁴² The Islands Trusts governs the islands and waters between mainland Vancouver and southern Vancouver Island.

An Executive Committee, comprising the chair and three vice chairs, is elected by and from the trustees. It guides day-to-day operations and cooperative relations with other levels of government. It also reviews the land use bylaws of local trust committees to ensure consistency with the Islands Trust legislated mandate.

Subsequently the legislation was amended to establish the Islands Trust Fund to act as a regional conservation land trust for the Islands Trust Area. The Islands Trust Fund is the land trust established under the Islands Trust legislation, which receives funding from the Islands Trust (for more information, please refer to Part 6 of the *Islands Trust Act*).

The Islands Trust Fund is run by a Fund Board consisting of one member from the Islands Trust Executive Committee, two persons elected by the trust council from among its members, and up to three members appointed by a Cabinet Minister. The Trust Fund Board meets every two months to direct the activities of the Islands Trust Fund. At its meetings, the Board oversees the general operations of the Islands Trust Fund and guides its activities by approving and ensuring compliance with operating policies, legislative initiatives, and operational requirements. The Board also guides the growth and direction of the Islands Trust Fund by developing and approving strategic planning initiatives and monitoring their implementation⁴³.

Accountability

As members of local governments, Island Trust is accountable to each constituent to abide by the terms and responsibilities provided in the *Islands Trust Act*. Islands Trust is also accountable to its Board of Directors and trustees to abide by and manage lands according to the trust document.

As a holder of ecological gifts it is accountable to the CRA regarding tax deductibility and to the Canadian Wildlife Service which determines the eligibility of the organization to participate in the Ecological Gifts Program.

Islands Trust is also made accountable by holding covenants jointly with other conservation agencies, ensuring that restrictions and practices are abided by and strengthening monitoring.

Tools Used

⁴³ For further information on Islands Trust Fund governance, please visit: *The Island Trust Fund: Roles and Responsibilities* <http://www.islandstrustfund.bc.ca/board/roles.cfm>

The Islands Trust Fund works with other agencies, community groups and landowners to protect special places through voluntary land donations, conservation covenants, land purchases and stewardship education. The fund currently manages 65 protected areas.

In addition, the Island Trust also operates The Natural Area Protection Tax Exemption Program (NAPTEP) which is available to Gulf Island landowners in the Sunshine Coast Regional District and the Capital Regional District. This program provides landowners, who use covenants to permanently protect natural and cultural features of their land, with the opportunity to receive a 65% exemption in property taxes on the protected portion of that land.

Liability

The Trust Fund Board carries liability insurance to address potential claims for bodily injury or property damage. In addition, the Board requires Management Groups to carry liability insurance. However, according to the Islands Trust Policy Manual, it is also appropriate to take other actions to identify hazards to the public, thereby minimizing the potential risk. Signs are an appropriate management tool for use on Trust Fund Board properties.

Financing

The operations of the Islands Trust are primarily funded through tax levies on properties within the trust area. Provincial grants and development application fees also provide revenue.

Fundraising for land purchases usually includes accepting individual donations that may be matched from the Islands Trust Opportunity Fund, preparing grant applications to foundations and corporations, and raising awareness of the project through the media.

The Trust Council is responsible for managing all finances of the Islands Trust.

Return on Investment

Depending on the length of the lease a return for any capital improvements made to the property may be available. Where a lease for 99 years has been granted, it will be considered perpetual, and therefore tenure will be gained simply as a result of the lease term. Capital improvements must abide by covenants on the lands.

Charitable Status

Although the Trust Fund is able to issue tax receipts by virtue of being an agent of the Crown, it is not technically a charitable body.

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Linnaea Farm Society

Purpose

The purpose of the Linnaea Farm Society is to use Linnaea Farm to teach, demonstrate and develop the values and practical skills of ecological land stewardship for the benefit of the Cortes Island community and the people who come to the farm to learn, thereby strengthening the relationship between community and land⁴⁴.

The objectives of the Society are three fold:

1. To develop skills relating to ecological land stewardship
2. To teach skills relating to ecological land stewardship
3. Strengthen the relationship between the community and the land

Land Ownership

The land is owned and used by the Linnaea Farm Society while the conservation covenants placed on the land are held by The Land Conservancy of BC and the Quadra Island Conservancy. The deed is a registered land trust and as such, if the Society were to contravene any of their covenants, or the society were extinguished the deed would revert to The Land Conservancy.

The use of the land is in accordance to four zones protected under covenant:

1. Agricultural Zone: Organic farming must be used
2. Forest Zones: Harvest of forest products must be sustainable
3. Protected Zones: These spaces must be free from human activity, except for limited trail use
4. Residential Zones: These areas are less restrictive and allow resident stewards to conduct activities necessary for home and farm maintenance.

Governance

The Board of directors of the Society ensure that all activities taking place on the farm are properly monitored and fall within the mandates of the covenants.

⁴⁴ For more information on Linnaea Farm visit: www.linnaeafarm.org/

Resident stewards take care of the day to day operation of the farm. These operations including haying, attending to maintenance, milking and other day to day projects. In addition, each steward heads up a major project including projects within the Linnaea Farm School, the garden program, the marketing of organic produce or the seed company. Each steward is required to commit time to activities that support the aims and objectives of Linnaea Farm Society. This includes teaching, research, administration, farm operations management, and work with community projects involving Linnaea Farm.

The Society also has several working committees which involve voluntary membership participation.

Decisions on land management and organization of the farm are made jointly at bi-weekly meetings of the resident stewards. Decisions made regarding new projects or the use of the land must be approved in writing by The Land Conservancy of BC and the Quadra Island Conservancy Society

Accountability

The Linnaea Farm Society is accountable to The Land Conservancy of BC and the Quadra Island Conservancy Society and all decisions regarding land use and projects must receive written approval by both prior to implementation to ensure decisions to offend the covenant. In addition both organizations monitor the activities of the Linnaea Farm Society regularly to ensure that activities are within the limits of the covenants.

As a non-profit society, the Linnaea Farm Society is accountable to its donors to use its funding only for uses relating to its purpose and not to personally benefit its members (note: not all aspects of the operation, for example the Linnaea Farm Garden Programme, are aspects of the non-profit designation).

As a charity the Farm is accountable to the Canada Revenue Agency and required to file an annual information return with the CRA and meet certain requirements of the Income Tax Act, concerning their expenditures and activities.

This charitable status lends addition accountability in that if the trust were extinguished or the Society were to violate the trust agreement, the properties, including capital, would be transferred to another charitable organization with similar goals.

Tools Used

The land held by Linnaea Farm Society is held for the common use of stewards and is largely experimental in nature. Stewards are responsible for their own livelihood and the upkeep of their homes, which are actually owned by the Society. At the time of the interview 80-100% of steward income was earned on the farm through various projects including the school and garden program, which generate revenue through tuition payments.

Conservation covenants held by The Land Conservancy of BC and the Quadra Island Conservancy protect the land according to restricted uses.

Liability

According to section 5 of the Society Act, a member of a society is not, in the member's individual capacity, liable for a debt or liability of the society. In certain circumstances a Society's Directors may be held liable for their actions. This can usually be dealt with by purchasing Director's insurance.

Financing

Stewards are responsible for their own livelihood and the upkeep of their homes, which are actually owned by the Society. At the time of the interview 80-100% of steward income was earned on the farm through various projects, most notably salaries paid in the school and garden program (which is not part of the non-profit registration of the Farm).

In addition, the Linnaea Farm Society engages in extensive fundraising efforts through events such as craft fairs, harvest fairs and workshops on sustainable living skills (such as cob building, sustainable food production, living roofs). Finally Linnaea Farm relies upon private donations from community members.

Return on Investment

Investment on the land is made by the society and as land is not held by any one individual no return is provided. All capital expenditure relating to the Linnaea Farm Society is provided by the Society, including farming equipment.

Charitable Status

The Society was successful in having the BC Supreme Court review a decision of the BC Assessment Appeal Board that the Society's lands were not tax exempt; the Court found that the Assessment Appeal Board erred in finding that the Society

was subject to taxation. The matter was sent back to the Board to determine whether all or part of the land was tax exempt where it was determined that the entire property qualified as tax exempt as all the activities carried on by the Society were of “demonstrable benefit to the community”. The Assessment Appeal Board found that “Given the integrated nature of the programs it [was] inappropriate to arbitrarily attempt to delineate portions of the subject lands according to specific uses”.⁴⁵

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⁴⁵ Courtenay v. Turtle Island Earth Stewards Society and Linnaea Farm Society [1996] Appeal No. 94-06-00027, 95-06-00003.

Long Point Basin Land Trust

Purpose

The purpose of Ontario's Long Point Basin Land Trust (LPBLT) is to work with landowners or managers who wish to protect and preserve lands that have ecological, scenic, historic or recreational qualities⁴⁶.

Land Ownership

The LPBLT does hold title to several properties. Several land ownership tools are used by the Society including lease-backs and reserved life estates. The LPBLT also holds and monitors covenants on property although the preferred method of conservation is holding sole title and providing life lease arrangements.

Governance

The LPBLT has a Board of Directors of seven individuals. Its organization is based on a business model and is self-perpetuating with no terms or limits. Board membership is not restricted to the local community and instead selection of Board members is based on skill and capability rather than focusing on the members' geographic proximity.

The LPBLT also has partnerships with many conservation authorities, numerous NGO's as well as the Ministry of Natural Resources.

Accountability

The LPBLT is one of the founding members of the Ontario Land Trust Alliance (OLTA) and abides by the OLTA's *Standards and Practices Code* (see appendix).

Tools Used

Generally the LPBLT holds sole title to land and leases it back to individuals who are willing to abide by restrictions in the lease regarding land use. In the case of agricultural land, the LPBLT does not maintain agricultural land but restores it to its natural habitats.

⁴⁶ For more information on Long Point Land Basin Trust visit: <http://www.lpblt.on.ca/>

Liability

In certain circumstances a Society's Directors may be held liable for their actions. This can usually be dealt with by purchasing Director's insurance.

Financing

Financing is obtained through donation, fees for educational programs and purchases.

Return on Investment

Generally the LPBLT does not provide leaseback on large plots of land, but on residences and yards placed on those lands. In the case of a lease for a residence and yard, the lease amount is discounted to reflect potential investment on the principle amount. Because leases are generally for 99 year terms, the leasee does have the potential to see a return for his/her investment.

Charitable Status

The NPBLT is a registered charity.

New Brunswick Community Land Trust: The Whaelghinbran Farm Proposal

Purpose

To provide a vehicle whereby landowners could, through legal initiative, maintain the productive characteristics of their land in perpetuity. The land trust focuses its conservation efforts on private woodlots, agricultural land and land of cultural significance⁴⁷.

Land Ownership

The NBCLT does acquire land for protection purposes. Currently the land trust holds title to one property which is co-managed with a tourism organization for trail use and heritage interpretive sites.

Another land acquisition proposal has been made to NBCLT by the owners of Whaelghinbran Farm, which consists of 70 acres of farmland and several hundred acres of woodlot. The owners are preparing for retirement. They, and others in the community, are concerned that if the property becomes available it will be over developed and clear cut.

The owners of the Whaelghinbran Farm have approached the New Brunswick Community Land Trust with a proposed conservation agreement. The proposal suggests that the owners sell half of the property at fair market value and donate the remaining half to the NBCLT. If the proposal is successful, title will be transferred to the NBCLT and the farmlands will be placed in trust to maintain their productive characteristic. In addition the proposal suggests a covenant requiring organic farming methods be placed on title as well. The NBCLT is currently undertaking a capital campaign to raise the funds for purchase.

The Whaelghinbran Farm arrangement contemplates a leasing arrangement on the productive farmland.

Governance

The NBCLT bylaws maintain that the Board of Directors must consist of a minimum of one bona fide farmer, seven woodlot owners, two Directors of the

⁴⁷ For more information on the New Brunswick Community Land Trust visit: <http://www.nbclt.org/>

New Brunswick Federation of Woodlot Owners, two members of Conservation Council of New Brunswick, and one member of Nature Trust of New Brunswick.

NBCLT currently has two project coordinators who work to promote trust agreements and the use of conservation easements to conserve working lands.

Accountability

The NBCLT bylaws provide that lands held in trust will be managed by recognized sustainable management practices and that a committee, made up of people from the local community and service organizations, will be established to oversee stewardship and use of the property.

As a non-profit society, the NBCLT is accountable to its donors to use its funding only for uses relating to its purpose and not to personally benefit its members.

As a charitable organization, The NBCLT is accountable to the Canada Revenue Agency and required to file an annual information return with the CRA and meet certain requirements of the Income Tax Act, concerning their expenditures and activities.

Tools Used

In addition to holding conservation easements on land, the New Brunswick Community Land trust is also qualified to hold properties and oversee management to ensure that it meets identified conservation guidelines.

Typically properties are donated by landowners who want to ensure particular conservation goals will continue to be met through time

In the case of fundamentally unique or otherwise valuable properties, a Land Trust may undertake to purchase the property to conserve the distinctive features and productive potential of the property. In the case of land acquisition, the NBCLT may use a bargain sale agreement with the owner's, where the purchase price is reduced from current real estate value and the land trust in turn issues a donation receipt for the difference.

Liability

In certain circumstances a Society's Directors may be held liable for their actions. This can usually dealt with by purchasing Director's insurance.

Financing

Not available.

Return on Investment

Not available.

Charitable Status

The NBCLT is a charitable organization, registered to preserve sites of beauty or historical value.

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Ontario Farmland Trust

Purpose

The Ontario Farmland Trust is a non-government, non-profit, charitable organization that has been established to work with farmers, rural communities and other interested parties to protect farmland and to preserve the availability of farmland for farmers in the province of Ontario⁴⁸.

Land Ownership

Occasionally the Ontario Farmland Trust will purchase farmland and lease plots out to farm operators. Farmland is also donated to the trust in some circumstances. Lastly land deals involving direct acquisition of farmland often occur at the time when a landowner is retiring from farming and part of the land is sold for development, leaving the owner able to donate the remainder, or sell it at a lower price.

Governance

The Ontario Farmland Trust is an incorporated non-profit society. Its Board of Directors is made up of 50% farmers and 50% key supporting organizations including The Ontario Federation of Agriculture, AGCare, and the Christian Farmers Federation of Ontario.

Accountability

As a non-profit society, the OFT is accountable to its donors to use its funding only for uses relating to its purpose and not to personally benefit its members.

As a charitable organization, the OFT is accountable to the Canada Revenue Agency and required to file an annual information return with the CRA and meet certain requirements of the Income Tax Act, concerning their expenditures and activities.

As a trustee of a number of land trusts, the Ontario Farmland Trust must also execute the trust in accordance with the terms of the executing documents and implement a rational degree of care, skill, diligence and judgement in managing

⁴⁸ For more information on the Ontario Farmland Trust visit: <http://www.farmland.uoguelph.ca/oft/oft.htm>

the trust. These duties are enforceable by the beneficiaries of the trust- usually the community in which the farmland is located.

Liability

Due to its incorporation, the Ontario Farmland Trust is a separate legal entity at law, and as such individual members are generally not held personally liable for the debts and liabilities of the corporation. In certain circumstances a Society's Directors may be held liable for their actions. This can usually be dealt with by purchasing Director's insurance.

Financing

The Ontario Farmland Trust is financed through membership donations, charitable donations, and grants provided by the Ontario Trillium Foundation and the George Cedric Metcalf Foundation.

Return on Investment

Not available.

Charitable Status

The Ontario Farmland Trust is a registered charity. Its designation is that of preservation of sites, beauty and historical.

Savary Island Land Trust Society

Purpose

Savary Island Land Trust (SILT) is a non-profit society dedicated to the preservation of natural areas and biological diversity on Savary Island. SILT was originally established in 1997 to thwart off a development threat to the last undeveloped District Lot on the island. Since this time SILT has received eight parcels of land through donations⁴⁹.

Land Ownership

SILT currently holds title to eight parcels of land. The land is held for conservation purposes: to preserve groundwater, habitat, biodiversity and heritage sites. The land is not leased back and in this manner SILT reaches its goals of preservation by reducing island density.

Governance

There is a maximum of twelve positions on the Board of Directors. The Board members also act as the trustees of the trust. The Board meets quarterly and seats are generally filled by concerned residents of Savary Island and are not reserved for members of conservation groups.

Accountability

The SILT constitution provides that if the Society were extinguished or if the Society were to violate the trust agreement, the properties would be transferred to another charitable organization with similar goals. This is a condition of being issued charitable status. Special note should be made that by special resolution, the SILT constitution does provide that the land may be sold in extraordinary circumstances.

Tools Used

SILT has established a fund to encourage lot amalgamation to address the effects of over subdivision. This increases the size of plots thereby increasing the acreage held in trust and not available for future development.

⁴⁹ For more information about Savary Island Land Trust visit: <http://www.silt.ca/>

SILT also uses conservation covenants to protect environmentally important aspects of the land. There are no buildings on the lands maintained by SILT.

In addition the Savary Island Land Trust is involved in a reform of the community plan to ensure that continuing overdevelopment is prevented.

Liability

According to section 5 of the Society Act, a member of a society is not, in the member's individual capacity, liable for a debt or liability of the society. SILT has protected itself against tort claims by adopting a liability policy paid for by donation. In addition insurance policies are available through the Land Trust Alliance of British Columbia to associate organizations⁵⁰.

In certain circumstances a Society's Directors may be held liable for their actions. This can usually be dealt with by purchasing Director's insurance.

Financing

With the exception of the original property purchased by SILT, which was made possible by grants provided by the Nature Trust of BC, the Province of BC, the Government of Canada and private donors, all subsequent land holdings have been made by donation.

The Society is maintained through private donations, fundraising campaigns and grants to provide public information sessions on sensitive ecosystems.

Return on Investment

Not applicable.

Charitable Status

The Savary Island Land Trust is a registered charitable organization.

⁵⁰Sabrina Aven, Insurance: Review of LTABC Member Policies (The Kingfisher Vol.13, Fall 2006: page 30).
Online: http://www.landtrustalliance.bc.ca/docs/Kingfisher_13.pdf

Southern Alberta Land Trust Society

Purpose

The Southern Alberta Land Trust Society (SALTS) is an agricultural land trust described as providing “rancher driven conservation.” The purpose of the organization is to preserve both the land and agricultural livelihood of cattle ranchers. The SALTS is based in south-western Alberta, and is largely a reaction to intense development pressures created by the expansion of Calgary. The SALTS does not aim to provide access to new farmers, but rather to facilitate the intergenerational transfer of existing ranches to new ownership without jeopardizing their status as working cattle ranches⁵¹.

Land Ownership

The SALTS does not currently acquire direct ownership of ranch land. Instead the organization undertakes broad initiatives on the danger of fragmenting or losing ranch land, and provides extensive tax, estate, and succession planning resources to current ranch owners. This includes the publication of a number of booklets, guides, and workbooks for landowners to use.

Governance

A majority of the SALTS director positions are held by ranchers; however, experience is also drawn from conversationalists, environmentalists and business people. The maximum Board size is 12 members and the sitting board undertakes extensive debate as to who will sit as a member (see appendix). The Board meets once per month.

The Board also has the ability to form and dissolve committees. The finance committee, governance committee and easement committee are more permanent in there functions.

Because the SALTS does not directly hold land in trust there are no trustees.

Accountability

The SALTS makes its annual general meeting minutes available online which includes the Treasurer’s report and audited financial statement.

⁵¹ For more information about the Southern Alberta Land Trust visit: <http://www.salts-landtrust.org/>

Although the context may be somewhat different in Alberta, the Society Act of BC dictates that a society is non-profit and therefore all funds collected must be used only for the purposes of the Society itself.

As a charitable society, in the event that the Society were extinguished, the properties and donations would be transferred to another charitable organization with similar goals.

Tools Used

The organization uses conservation covenants to preserve existing cattle ranches and prevent future owners from changing the use of ranch lands. The organization appears to hold seven easements, totaling 3,800 acres.

Liability

The SALTS has organized itself so as to not attract significant liability. A main aspect of the organization is simply education of the community, the general public, industry, and government about the value of the native grassland ecosystem and the need to protect it from loss and fragmentation due to urban and industrial expansion. This education is not designed to be legal advice.

In addition SALTS typically does not establish conservation covenants of their own accord but rather educates people about the value of individual adoption of conservation covenants and succession planning. SALTS does accept donations of conservation easements, and therefore must ensure that land owners are abiding by those restrictions, however this is more of an issue of enforcement rather than liability.

In certain circumstances a Society's Directors may be held liable for their actions. This can usually be dealt with by purchasing Director's insurance.

Financing

The SALTS appears to have a diverse range of funding contributors and support. It is not clear if there is direct funding by government, although Alberta Agriculture, Food & Rural Development, the British Columbia Ministry of Agriculture, Fisheries and Food, and the Saskatchewan Department of Agriculture and Food are listed as partners on their website. There is also a long list of corporations and foundations included in their list of funding contributors and partners. There is a list of almost 60 Charter Supporters who donated in the early

stages of development. The organization has also established an endowment fund, the proceeds of which will underwrite the operational costs of the organization on a long term basis. The notion of endowment funds are increasingly becoming more popular especially in the case of donated land by corporate entities.

Return on Investment

Because SALTS does not acquire direct ownership of ranch land, capital improvements are at the discretion of the land owner and their return on investment is purely market driven.

Charitable Status

The Southern Alberta Land Trust is a registered charity. Its designation is that of preservation of sites, beauty and historical.

The Land Conservancy of British Columbia

Purpose

The Land Conservancy is a non-profit, charitable land trust working throughout British Columbia. TLC protects important habitat for plants, animals and natural communities as well as properties with historical, cultural, scientific, scenic and, most recently, agricultural value⁵².

Land Ownership

The Land Conservancy utilizes a number of legal instruments to hold an interest in land including sole ownership through purchase, bargain sales, installment sales or donation. Donation is done either by transferring title or by donating a legal interest in the land by registering a conservation covenant against the land. The TLC also enters into stewardship agreements with landowners to ensure certain practices (see appendix)

Governance

The Land Conservancy operates five regions around the province, each headed by a Regional Manager. Each region develops its own priorities based on local circumstances and opportunities. TLC is a non-profit, charitable trust modeled after the National Trust of Britain. It is a democratic, membership-based organization and governed by a volunteer elected Board of Directors who are elected by TLC membership. The Board comprises 18 Directors, who serve for three-year terms, with approximately one-third of the Directors elected each year. The Directors are prohibited from receiving remuneration. The Directors may also appoint, and dissolve, committees.

Current Board membership includes land and environmental lawyers, investment managers, small business owners, retired public servants, journalists, scientists and concerned community members.

Individuals become members, and thus eligible to hold positions on the Board through the payment of an annual membership donation of \$35.00 or more. Each member, regardless of his donation amount, has one vote. Membership fees provide core support to TLC.

⁵² For more information about the Land Conservancy of BC visit: <http://www.conservancy.bc.ca/>

The TLC also has a full staff who attends to the day to day functioning of the organization.

Accountability

The Land Conservancy is accountable to its Board of Directors as representatives of general TLC membership. Each year an annual report is published to coincide with the TLC annual general meeting. The Annual Report which contains financial statements as well as a review of the year's activities is provided on the TLC website.

In addition, as a registered charity, TLC is also accountable to the Canada Revenue Agency and required to file an annual information return with the CRA and meet certain requirements of the Income Tax Act, concerning their expenditures and activities.

As a holder of ecological gifts it is accountable to the CRA regarding tax deductibility and to the Canadian Wildlife Service which determines the eligibility of the charitable recipients organization to participate in the Ecological Gifts Program, the ecological sensitivity of the land and the fair market value of the donation.

In many cases TLC Land is also made accountable by holding covenants jointly with other conservation agencies, ensuring that restrictions and practices are abided by and strengthening monitoring.

Finally, TLC is a subscriber, and must continue to be a subscriber according to its bylaws, to the *Standards of Practices Code* established by the Land Trust Alliance, a copy of which is provided as an appendix to this report.

Tools Used

The TLC utilizes several legal tools to protect land. The TLC holds conservation covenants with land owners, purchases ecologically sensitive properties and enters into stewardship agreements with property owners.

TLC has also turned its attention specifically to the interrelationship between conservation and agriculture through its Conservation Partners Program.

The Conservation Partners Program uses a written stewardship agreement which clearly states what the participant will and will not do in order to remain a

participant in the Conservation Partners Program. Typically these restrictions regard habitat conservation. TLC then assists participants with technical and funding assistance for stewardship projects. In this regard, TLC works within its capacity to liaise with other conservation groups, professionals, members of the public, and funding sources at the local, provincial and federal levels. Produce distributors, grocery retailers, box programs, farmers markets and participants are invited to help promote the program and to financially support the program. TLC also markets the program by providing producer profiles and other informational material for the consumer to managers of retail outlets, urban box programs, and produce wholesale distributors and providing media releases.

The benefit of association with a large land trust is that, as demonstrated above, many marketing initiatives are undertaken on your behalf by the organization.

Products of a conservation partner are also labeled by TLC as environmentally friendly.

Liability

According to the Society Act and TLC bylaws, “no member of the Society shall be liable in his personal capacity for the debts or liabilities of the Society”. In addition, TLC bylaws provide that “subject to the *Society Act*, no Director or officer shall be liable for the acts, receipts, neglects or defaults of any other Director or officer or employee for any loss, conversion, misapplication or misappropriation of or damage resulting from any dealings with any moneys or other assets belonging to the Society or for any other loss, damage, or misfortune occurring in the execution of the duties of his respective office unless the same shall happen by or through breach of duty or breach of trust of which he may be guilty in relation to the Society”. Lastly, TLC bylaws provide that the Directors may purchase and maintain insurance to cover potential Director’s liability.

Financing

The TLC has a much larger operating budget than many land trusts. Although its resources are much larger, The Land Conservancy finances its organization in much the same way as smaller societies through: donations, grants, membership fees and rental income.

As a membership based organization, membership fees cover core operations (which include staff members throughout the province). Grants from private

foundations cover small programs, while most acquisition and protection work comes from solicited donations.

Return on Investment

Leasees of TLC lands can make improvements provided they are consistent with the 'rules' of the property. Since 99 year leases/agreements are considered 'almost' perpetual these are treated like leasehold improvements but are really never abandoned. It is always expected that 99 year leases will be renewed for a dollar at the end of the lease period unless the leasee's use of the lands has been problematic.

In the case of agricultural tenants on shorter leases (3 year, 5 year, 25 year) there is a process by which an agreement is reached between the tenant and TLC which establishes, in advance, the share of capital cost each will pay according to the expected life of the investment (according to depreciation tables) and the leases investment of time and energy. This process provides for the sale of any remaining (undepreciated) capital investment to either the next tenant or TLC.

Charitable Status

TLC is a registered charity for the protection of animals.

Delta Farmland and Wildlife Trust

Purpose

The Delta Farmland and Wildlife Trust (DF & WT) is a non-profit society created to promote and preserve farmland and associated wildlife habitat on the Fraser River Delta through sustainable farming and land stewardship⁵³.

Land Ownership

Although The Delta Farmland Trust constitution allows it to purchase lands for the purpose of conservation, it currently does not own any land. Instead DF & WT works with farmers in sharing the costs of sustainable agricultural practices (see: Tools Used).

Governance

The DF&WT has an 8 member Board of Directors appointed from the Delta Farmers' Institute and the Boundary Bay Conservation Committee. Three individuals from each appointment group are appointed simply due to their membership and one individual from each group is selected due to his/her special knowledge or experience (i.e.: conversationalist activity, business or farm experience).

Within the Board there is an executive consisting of a Chair, Vice Chair, Treasurer and Secretary. The Board of Directors is responsible for meeting the conditions placed on any income the Trust receives for the purposes of soil and wildlife habitat conservation.

The Board meets once a month with the exception of the two months over summer where meetings are generally only commenced for urgent purposes.

The DF & WT also has two steering committees which monitor the use two endowments available to the organization. Each committee consists of local, provincial and federal civil servants, conservation group members and members from the Board of Directors. The committees meet once or twice a year to review the programs and the use of funds.

⁵³ For more information about the Delta Farmland and Wildlife Trust visit: <http://www.deltafarmland.ca/>

The DF & WT also benefits from an Advisory Committee that meets once every 2-4 years depending on developments. Their role is strictly advisory in nature and meant to provide suggestions for future development. Strictly speaking the Advisory Committee does not have a role on governing the Trust.

Accountability

As a non-profit society, the DF&WT is accountable to its donors to use its funding only for uses relating to its purpose and not to personally benefit its members.

The DF&WT is accountable to the Canada Revenue Agency and required to file an annual information return with the CRA and meet certain requirements of the Income Tax Act, concerning their expenditures and activities.

In many cases DF&WT may be accountable to farmers who undertake stewardship practices recommended by the Trust.

Lastly, as a registered charity if the trust were extinguished or the Society were to violate the trust agreement, the properties, including capital, would be transferred to another charitable organization with similar goals. This adds accountability in the sense that donation monies will be not be subject to society debts or mismanagement.

Tools Used

The SF&WT administers a number of stewardship programs that are made available to farmers on the Fraser River Delta. A stewardship program is simply a voluntary commitment by private land holders to manage the lands a certain way.

Under these programs the Society shares the cost of implementing specific management practices contributing to soil and/or wildlife habitat conservation and enhancement. The programs include cost sharing for leaving fields sown with grasses, providing not only habitat but also assisting in making the three-year transition to organic production. The program also provides cost sharing for cover crop planting in the summer to protect the land from erosion in the winter months. The program also provides cost sharing for sustainable edge and field margin farming.

Liability

According to section 5 of the Society Act, a member of a society is not, in the member's individual capacity, liable for a debt or liability of the society.

In certain circumstances a Society's Directors may be held liable for their actions. This can usually be dealt with by purchasing Director's insurance.

Financing

The DF & WT project is partially funded by Environment Canada. Donations and grants have also been provided by the British Columbia Waterfowl Society, the Delta Agricultural Society, the Canadian Wildlife Service and Ducks Unlimited Canada, as well as from two habitat compensation endowment funds (for habitat lost with construction at the Vancouver Airport and the construction of a Delta golf course).

Return on Investment

Direct capital compensation is not a part of the DF & WT project. Rather, the Project offers incentives to farmers who choose to be involved in soil conservation and wildlife habitat conservation by sharing the costs of certain initiatives on private farmland.

Charitable Status

The DF & WT is a charitable organization. It is classified as community organization providing a public benefit.

SECTION III
Corporate Governance: Cooperatives

The Land Conservancy: Keating Farm Cooperative⁵⁴

Purpose

The purpose of the Keating farm projects is to help protect farmland, contribute to the local organic food supply, support conservation and sustainable agricultural projects and to provide affordable farmland to farmers⁵⁵.

Land Ownership

TLC retains ownership of the property and sells the right to operate and manage the farm for 99 years to the Cooperative for \$500,000. The Cooperative holds \$250,000 in reserve for capital improvements to the farm.

Governance

The Co-op is a legal entity- a limited liability, for-profit business corporation restricted to 150 members.

Individuals, groups, businesses and organizations are eligible to apply to become members of the co-op (see appendix). If approved, the member must purchase a \$5000 membership share which helps to create a \$750,000 capital pool for cooperative projects.

Shares may be redeemed or sold and a member may own more than one share, but regardless of the amount he owns will only have one vote.

A Board of Directors, elected from Co-op membership manages the farm according to the terms of an agreement with TLC (see appendix). This agreement restricts the farm operations to organic multi-functional farming activities. Each co-op member farmer signs rental agreements with TLC.

Accountability

As a property owned by The Land Conservancy, Keating Farm Cooperative is accountable both to its own Board and that of the Land Conservancy. In addition, members are accountable to The Land Conservancy in respect of the lease. Finally, the cooperative is accountable to the membership and the community.

⁵⁴ See Horse Lake Community Farm Cooperative – <http://www.horselakefarmcoop.ca/>

⁵⁵ For more information about Keating Farm visit:
<http://www.conservancy.bc.ca/content.asp?sectionack=keatingfarm>

Tools Used

The Land Conservancy has used restrictive lease terms to ensure the sustainable use of the Keating Farm Lands. This has not yet been combined with the use of covenants- perhaps due to the ALR designation.

Liability

According to the agreement made between the Co-operative and The Land Conservancy, TLC is not responsible for any injury or damage to any person or property, in, or about the Land, howsoever caused as a result of operations of the Keating Farm. However, this may not entirely shield them from liability to third parties for their own negligence, etc.

Financing

Financing is achieved solely through membership fees. The final lease installment was due to The Land Conservancy in 2006. Due to difficulties in attracting membership investment, the Co-op Board of directors implemented the following strategies:

1. Negotiated a loan through a financial institution for the outstanding balance
2. Developed a program that permitted the purchase of membership shares in monthly installments
3. Developed a program through RRSP management to have Keating Farm shares available as part of a self-directed investment portfolio

Return on Investment

The length of the lease of Keating Farm provides tenure to members and incentives to invest in the land although capital will not be directly reimbursed through TLC.

In the case of shorter term leases an agreement is reached between the tenant and TLC which establishes, in advance, the share of capital cost each will pay, the expected life of the investment (buildings depreciate slower than fences), and also allows for the tenant receiving credit for his labour. This process allows for the sale of any remaining (undepreciated) capital investments.

Charitable Status

A for-profit corporation is prohibited from registering as a charity.

O.U.R. EcoVillage⁵⁶

Purpose

The purpose of an EcoVillage is to provide a full featured settlement in which human activities are harmlessly integrated into the natural world in a way that is supportive of healthy human development and can be successfully continued into the indefinite future. Its mandate is to create a sustainable village community rooted in social, ecological, and economic well being where people are able to benefit from educational services on redesigned sustainable modes of living.

Governance

Governance at O.U.R EcoVillage is broken down into several committees.

The Hearthkeepers are community members who live at O.U.R. EcoVillage and attend weekly meetings which focus on daily task planning. These roles may be filled by visiting summer staff, interns/co-op students or resident applicants.

O.U.R. Friends are individuals who support to O.U.R. EcoVillage through membership in the non-profit association and through volunteer roles in specific projects.

O.U.R Community Association is the non-profit arm of O.U.R. EcoVillage. It consists of a Board of Directors and an administration team who are responsible for all non-profit activities in the community including educational programming, fund-raising and strategic planning.

Finally, O.U.R. Sustainable Community Development Co-op shares ownership of the land and projects such as the development of residences.

⁵⁶ Although substantive information is not currently available, reference should be made to OUR EcoVillage (<http://www.ourecovillage.org/>) website for new developments.

SECTION IV
Appendix: Legal Documentation

Appendix 1A

Appendix 1B

Appendix 1C

Appendix 1D

Appendix 1E

Appendix 1F

Appendix 2A

Appendix 2B

Appendix 2C

Appendix 2D

Appendix 2E

Appendix 3

Appendix 4

Appendix 5

Appendix 6

Appendix 7