

ANNEX 1 - LAND TRUSTS REPORT

LAND TRUSTS IN OTTAWA-CARLETON

A discussion paper on expanding the role of
land trusts in Ottawa-Carleton

The Region Of Ottawa-Carleton
Planning and Development Approvals Department
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Ottawa-Carleton's Community Vision includes the statement that Ottawa-Carleton will be a model region in preserving, protecting and enhancing a green, clean and healthy natural environment. During the community effort to create this vision, it was found that "Ottawa-Carleton residents value green space and the protection of the environment above all other values" and that this vision included "protecting environmentally sensitive lands ..." as well as "...green space interspersed with the urban landscape..." (RMOC, 1995, Pub. 6-23)

Based on this vision, policies and designations were incorporated into the new Regional Official Plan that recognizes natural environment areas, urban open space, waterfront open space, recreation areas, and the ongoing need to identify additional areas of significance in cooperation with local municipalities and the community in general. Many levels of government and organizations help to fulfill this vision. Natural areas and open spaces are protected and maintained through public ownership at the federal, municipal, and conservation authority level, and through private land stewardship. Non-government groups, including conservation foundations, the Rideau Waterway Land Trust, stewardship organizations and community groups, all contribute significantly.

While these are all important actions, implementation challenges remain. This discussion paper is meant to generate ideas and debate about one potential way of implementing the vision and policies - expanding the use of land trust organizations in Ottawa-Carleton.

What is a Land Trust?

Land trust is a generic term referring to non-profit organisations dedicated to conserving open space, agricultural land, historic buildings and/or natural areas. They generally have some public membership and a volunteer board of directors. They vary in scope from small local organizations with very specific objectives to large national efforts. Land trust organisations can be involved in a variety of activities including:

- **Fund raising.** Trusts can be effective fund raising organizations in situations where government cannot.
- **Land Acquisition/securement.** Trusts may obtain land or conservation easements through purchase or donation. In the U.S., land trusts are very involved in acquisition and obtaining easements. In Ontario, this component is beginning to be more prominent.
- **Management of Greenspace.** In Ontario, trusts and foundations have not been direct managers of land on a large scale. Generally, property management is transferred to another group such as a Conservation Authority or nature club. In some countries such as England, land trusts manage extensive areas.

- **Creating a Natural Heritage or Greenspace Strategy.** A trust can work with community and government in designing a strategy which details areas and open space corridors to protect. As a non-governmental body, a trust can look at the broad picture, and then find opportunities and partners to work with.
- **Education and Private Land Stewardship.** Trusts can play a role in education and work with land owners to promote land stewardship as part of their mission. There is also an Urban Stewardship Council in Ottawa-Carleton that participates in urban land stewardship initiatives, and a similar group for rural Ottawa-Carleton.

Land Trust activity has been increasing in Canada and Ontario. Last year, an umbrella group called the Ontario Nature Trust Alliance was formed and there are currently between 25-30 land trust organizations in the Province. However, as compared to the United States and Britain, land trusts have not played an extensive role in the protection of natural areas and open space in Ontario. Groups which perform land trust functions include:

Rideau Waterway Land Trust

- focuses on lands that can be seen from or provide views to the Rideau River
- established three years ago
- recently received donation of a 24 hectare wetland property near the confluence of Kemptville Creek and the Rideau River

Conservation Foundations (Rideau Valley and Mississippi Valley)

- Rideau Valley Conservation Foundation has a volunteer board with the Rideau Valley Conservation Authority (RVCA) supplying some staff support
- becoming more active with fund raising for an environmental land fund and have experienced an increased interest in donating land (4-5 active cases, mostly in the Upper Rideau Lakes area).
- owns land and enters into agreements with the RVCA who manages the land on behalf of the Foundation.
- There is also a similar foundation operating in the Mississippi Valley.

Couchiching Conservancy

- focuses on protecting specific properties and working cooperatively with private landowners
- has prepared a Natural Heritage Plan for the area north of Orillia.

Cambridge Natural Heritage Trust Fund

- created by the City of Cambridge (Ont) Council to receive cash donations for natural area protection
- funds held in trust and distributed to organizations involved in purchasing natural areas

Muskoka Heritage Trust

- incorporated in 1987
- has a number of objectives ranging from land protection to private education and stewardship
- holds 120 ha of donated land

Waterfront Regeneration Trust (GTA)

- formerly the Crombie Commission

- active as an overall facilitator along the Burlington - Port Hope Waterfront
- example of an urban-based trust

US Land trusts

- many examples in US for agricultural and natural land (over 47 in New York State alone, including the Adirondack Land Trust)
- Vermont land trust has protected 25,000 ha. through conservation easements, purchase and resale, and creative development projects.

There is an appendix to this discussion paper available that includes examples of trust activities and publications in Ontario (please call the Regional Planning and Development Approvals Department at 560-2053 for a copy) .

Potential Role in Ottawa-Carleton

Would an increase in land trust activity be a constructive and positive approach to protecting environmental features and open space in Ottawa-Carleton? This is a basic question that needs careful scrutiny and broad discussion prior to concluding whether there is a need for any additional land trust activity or organisations.

Currently, there are many efforts in Ottawa-Carleton aimed at protecting environmental features and open space. Area municipalities maintain parks systems which provide significant open space resources, particularly in the urban area. The National Capital Commission and Federal Government also own environmental features and maintains open space within the Greenbelt, and throughout the urban area, particularly along the Rideau River/Canal and Ottawa River. In the rural area, the Region of Ottawa-Carleton owns land in several significant environmental areas including the Marlborough Forest. Conservation authorities own conservation lands as well, and have been involved in donations of, for example, wetland areas.

In terms of existing trust activity, the Conservation Foundations and the Rideau Waterway Land Trust are becoming increasingly active in rural Ottawa-Carleton and beyond. While they have not been active in the urban area to date, they have a general mandate to address environmental features throughout much of Ottawa-Carleton.

What seems to be lacking is a mechanism to address several concerns and needs which are most evident in urban Ottawa-Carleton. For example, there is no co-ordinated effort for funding raising and building private/public partnerships. It is also apparent that communities would like to be more active in managing and protecting environmental areas and open spaces in neighbourhoods. There are also some situations or lands which do not fall into the mandate of any particular level of government and yet are valued and warrant some form of recognition or action. With resources declining, it has been suggested that there is a need to complement government activity with community-based efforts.

Land trusts could help address several of the challenges involved in protecting environmental features and open space in Ottawa-Carleton. These include the need to build community trust and involvement in the long term protection of important areas. Potentially, a land trust could provide:

- a mechanism for ongoing fund raising and acceptance of contributions for specific projects, including programs involving matching funds from public agencies or municipalities;
- an independent and single purpose body for facilitating creative approaches (donations, easements) to land securement by working with different levels of government and private landowners;
- a way to involve the community in planning and management of publicly owned open space lands such as lands which are being transferred from federal to municipal control or lands being preserved as passive open space in the course of private development;
- education and promotion of environmental stewardship and restoration; and
- assistance in promoting awareness and creating broad environmental and open space strategies.

Many of these functions do not necessarily require a distinct land trust organisation. For example, recent changes to federal tax laws allow the Region and Conservation Authorities to issue tax receipts for land donations. However, some individuals and groups may prefer to deal with a non-government trust whose sole purpose is the protection of environmental values. The challenge is in determining the gaps in Ottawa-Carleton, and deciding if a trust, through one or more of the functions listed above, is an effective way of filling the gaps.

Ottawa-Carleton would provide a unique challenge and setting for land trust activities. For example, issues surrounding open space and environmental features in the urban and developing areas involve public as well as private landowners. In addition, land trusts and related activities have generally focussed on the rural countryside where issues related to future land management, land values, and conservation objectives can be very different than in urban areas. There is not an experience elsewhere which provides a clear model for Ottawa-Carleton, particularly in the urban areas and villages.

To be effective, any land trust activity in Ottawa-Carleton must involve a wide range of partners. While trusts are community-based initiatives, some initial government support would likely be necessary to establish the trust. Many specific projects would rely on the co-operation of different levels of government, whether it was the federal government entering into agreements on transferring federal lands, local municipalities managing parkland, or municipal governments providing matching funding for common objectives. The private sector would also be critical both as a landowner/potential partner, and as a source of funds.

Some Key Questions

If there is an agreed upon need for expanded land trust activities, particularly in the urban area, several additional questions need to be answered in defining a potential role and structure for a Land Trust.

Is a new organization needed to meet the need?

There may already be trust organisations, community groups, or government programs that can meet the objectives established for a land trust in an area. Given the time, energy, and initial funding (at some level) required to establish a trust, there should be a clearly identified need for a new organisation. It would also be important to avoid duplication, confusion, and direct competition between efforts. One option could involve creating an urban Ottawa-Carleton division within an existing trust organisation, thereby taking advantage of their knowledge and charitable status, as well as ensuring ongoing communication and co-operation between trust efforts.

What is the focus or objective?

Establishing a focus is important as land trusts cannot be effective if they take on every project. Does the trust begin with a relatively focussed objective, such as playing a role in protecting and managing several specific parcels of land, or does it have a broader mandate? How do you distinguish between rural and urban issues, if in fact it is necessary to have such a distinction?

What role should government play?

Land trusts are community based initiatives that, depending on the circumstances, may rely on government partnerships and initial support. Involvement from Regional government or other agencies in helping to establish and working with a trust is an option for implementing community objectives. However, the strength of land trusts lies in part in their independence and non-government status. Any effort to expand land trust functions will require a creative partnership between the community and government.

How would a trust choose priorities and projects?

A trust needs to have a way of establishing priorities or determining which lands will qualify. This usually involves a combination of some basic rules on what types of land could qualify, and some degree of urgency or potential loss of opportunity.

These are a few of the key questions that will require further discussion and some initial answers if the need for some form of additional land trust is established.

Conclusion

Land trusts can be an effective way to deal with preservation of environmental and open space features. It provides an opportunity for community involvement and creative approaches to meeting objectives through partnerships with government, community groups and landowners. However, there are a number of questions, including the basic need for a land trust, which can only be answered through discussion amongst community groups, potential partners, landowners, and government agencies and municipalities.

Community involvement and interest is critical. Your Comments on the potential role of land trusts in Ottawa-Carleton are appreciated. If you have any comments or questions, please contact:

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NOTES FROM THE PUBLIC DISCUSSION ON LAND TRUSTS

Tuesday, November 3, 1998, 7:30-10:00 p.m.
Ottawa-Carleton Centre

Discussion was attended by approximately 50 people, 35 of whom signed the attendance list

Introduction

Evening began with an introduction from Councillor Peter Hume who welcomed participants. Councillor Hume explained that this initiative was part of the task force on Land Trusts established by Chair Chiarelli to explore the potential use of land trusts with the community and government partners. Councillors Peter Hume and Robert van den Ham were appointed to lead the task force and they plan on reporting to Planning and Environment Committee early in the new year on the results of the work to date. This discussion represents the first opportunity for people with an interest in Land Trust activities to get together and explore the existing role of trusts, and the potential contribution of expanding land trust activity in Ottawa-Carleton.

David Miller then introduced the agenda for the evening which was divided into three components:

- a general presentation on land trusts by Ian Attridge, a lawyer who has been involved in several land trusts around Ontario and written extensively on the use of conservation easements.
- a panel discussion focussing on the situation in Ottawa-Carleton
- a general discussion on potential roles for land trusts and related issues

Presentation by Ian Attridge (Lawyer and Land Trust Advisor)

Land trusts are a growing movement with over 1200 trusts in the U.S., 60 across Canada, and 20 members currently belonging to the Ontario Nature Trust Alliance.

Trusts are non-profit incorporated charities with community volunteers and boards of directors. They work on the conservation of natural and cultural heritage outside of government by working with landowners

Land trusts are about finding “win-win” solutions, encouraging private stewardship and finding creative ways to secure land for open space or environmental protection for future generations.

There are three general types of trusts:

- traditional trusts which hold land such as the Bruce Trail Association;
- newer community trusts which focus on a range of things including land securement and stewardship such as the Rideau Waterway Land Trust; and
- trusts associated more with government such as the Ontario Heritage Foundation.

Trusts are often formed around specific issues or sites, but generally come into being because:

- government can't do everything;
- governments can change mandates;
- trusts can address issues quickly and creatively;
- some landowners prefer to deal with a non-government body.

Trusts can use a number of tools to secure land including those summarized in Attachment 1.

Examples of other land trust activities include:

- private land stewardship and landowner contact
- education
- strategic planning and determining conservation priorities outside of specific government mandates (the Couchiching Conservancy began by formulating a broad strategy and Natural Heritage Plan)

He suggested that we think about several things as we explore the role of land trusts:

- They are independent of government. That allows them to act quickly, and deal with landowners who do not want to donate or enter into partnerships with government. Land trusts can, however, work in partnership with governments on several levels.
- Natural heritage land trusts often become involved with cultural heritage as well. For example, a large property donated to a land trust in the Grand River area included an historic mansion, farmland, and significant natural woodlands and wetlands.
- There are a number of ways to get started including using existing organizations and starting with a relatively narrow focus and growing.
- Conservation easements can be a very effective way of creating trust and partnerships, as well as leaving land in private hands and avoiding maintenance problems. For example, when public lands are disposed of, there can be a conservation easement attached to ensure that important values are protected.

Mr. Attridge responded to a question related to Tax laws by indicating that the changes to the income tax provisions in 1995-96 make donations more attractive, but that there are still obstacles related to capital gains and, more recently, some concerns about potential changes in the property tax system in Ontario that could lead to Land Trusts paying property taxes.

In responding to questions, Mr. Attridge indicated that Land Trust are legally responsible to:

- their membership
- the Ontario Public Trustee
- Revenue Canada

They also have a sense of responsibility to the broader public in that they depend on the support of the community and their credibility.

Panel Discussion

There was a panel discussion designed to discuss the questions in the discussion paper from an Ottawa-Carleton perspective. Four panelists gave presentations:

Christine Hartig (Urban Stewardship Council)

The Urban Stewardship Council promotes urban stewardship, ecosystem knowledge, funding opportunities and self-help projects through the direction of a 7 member volunteer stewardship council. This is the only stewardship council in the provincial program dealing solely with urban land practices.

They have occasionally commented on planning applications from the point of view of (in the case of ecologically sensitive lands) providing credible alternatives to development. These alternatives have included municipal/community purchase, charitable donation, conservation easements, other incentives such as tax relief under the Managed Forest Tax Incentive Program.

They have found that in some situations, they have needed a land trust organization to work with as many of the alternative approaches hinge on having a land trust in place to secure ownership.

Given that the urban and rural situations are different, particularly with respect to land values, urban Ottawa-Carleton needs its own trust.

The primary focus should be the holding and managing of land for conservation purposes with a secondary role of advocating good stewardship practices for landowners.

Any trust should be independent and able to effectively partner with government and the private sector - to that end government could be a financial contributor (although not the sole contributor) with the land trust utilizing existing mechanisms to bank and manage land.

Shelley Parlow (Greenspace Alliance)

Greenspace Alliance is an affiliation of groups (community-based) trying to protect greenspace.

In Ottawa-Carleton we are in a unique situation of having many natural areas in an urban setting, and many of these areas are already in public ownership.

From the point of view of the community, this presents a credibility problem. If greenspace is already in public ownership, why do we need a trust to secure it? Community groups are constantly forming to save publicly owned greenspaces that are being sold and converted into urban infill. The Greenspace Alliance feels as if they are constantly fighting brush fires and that this situation will continue as long as policies exist that facilitate the development of these natural areas. This is a government policy problem (at all four levels: city, region, province, and federal) and a land trust is unlikely to influence this problem significantly. Lobbying must also be considered, to deal directly with the need to change government policies that affect urban greenspaces.

There is also a concern that a trust could lead to downloading of responsibilities onto community volunteers.

However, there are positive things about land trusts including:

- the ability to act quickly and creatively
- community involvement
- ability to incorporate social values into trust activities

A trust should have a broad mandate and build on the Ottawa Greenway System, expanding it with more connections and a network of pathways, perhaps linking all ESA's.

Key considerations in establishing priority include:

- ecological value
- social value
- urgency/degree of threat
- location (make sure lands are distributed across the region and not clustered in one area or municipality)
- linkage value

Peter Hannah (Rideau Waterway Land Trust)

The Rideau Waterway Land Trust, which deals with the viewshed of the Rideau Waterway, is now 3 years old. It has an 11 member board of directors and owns 2 properties (one of which they co-own with the RVCA). They have 4 or 5 potential donations on the go. They set up an endowment fund for each property.

He emphasized that you need to crawl before you walk and run. You need to put yourself in a position to succeed.

They do not consider themselves a lobby group. Independence is critical and you have to be able to get along with everyone.

Land Trusts fill a niche between government/regulation and landowners.

Dennis O’Grady (on behalf of the Conservation Authorities and Foundations)

The Conservation Authorities have some experience and an ongoing program for trust activities. There are also Conservation Foundations which operate on a watershed basis for fund raising and land securement. He reviewed Conservation Authority activity including donations (lands in the Leirrim Wetland area being one recent example they are working on) and joint projects including working with the Rideau Waterway Land Trust.

He emphasized that it is critical to avoid duplication and establishing something new which is not necessary. He presented the idea of a land trust alliance which builds on existing efforts and creates an inclusive structure for existing groups and efforts. Attachment 2, his overheads, summarizes his presentation.

Open Discussion

An open discussion followed the panel presentations. A wide range of comments were made. There was general support for land trusts but significant questions around government roles, the need for something new, and concern that government not use land trusts as a way to pass on responsibilities. The following points summarize the discussion (related points have been grouped).

Scope of a Trust:

Any trust should involve both sides of the river. Ideally, this should be a National Capital Region effort. Ian Attridge indicated that there are some trusts active in Quebec but that Quebec law does not allow for easements. However, income tax provisions are favorable in Quebec. The added complication of having the Ottawa River (multi-jurisdictional) as a component of trust activities was discussed.

It is imperative that we think large. We need to think about both sides of the river.

Governments and trusts:

There was the suggestion that we need to abandon the idea of different levels of government. There was concern that if governments get involved in trusts, the issues surrounding levels and jurisdictions will become a factor.

It was suggested that the real concern was with government. Maybe what is needed, rather than the onerous process of starting a new organization, is to “take back government” and hold them to their mandate. Many of the problems are being created by the changing mandate of the National Capital Commission. It is important to remember that the NCC was originally a “land trust”. We should also be focussing on getting them to change their policy.

There needs to be “one stop shopping” on information and issues related to urban green space. This should include a registry of public lands and transactions for all levels of government.

It will help if land is held outside of government. This will provide opportunities for community involvement and build trust. There is an opportunity for community groups to express values through easements. Easements for bicycle paths is one example.

Peter Hume emphasized that this is not about a transfer of responsibilities. It is an effort to extend and enhance the Regional role. It is an effort to lever more resources. Regional government will continue to play the current role, buy land, implement the Regional Plan, etc.

Urban Emphasis:

The need for an urban emphasis was raised in several comments. It was noted that to date, the Conservation Authorities and existing trusts have not been active in the urban area. It was noted that creative tools such as easements are not being used in the urban area, and that land in the urban area is under great pressure and that values can be very high (e.g. Montford Hospital Woods). Communities want to be involved. All of this points towards the importance of focussing on the urban areas and not diluting energy and resources. An alliance could be too broad in focus.

In the urban area, there is more emphasis on development. Governments are not likely to be interested in donating land when they are in the process of trying to dispose of it for cash.

General:

It was noted that the Federation of Community Associations recognizes that Land Trusts are one way to protect urban open space and that land trusts survive changes in government policy and mandate. They are interested in being a partner.

Complexity of personal relationships is critical in land trusts. You need the visionary/entrepreneurs as well as bureaucrats.

It was emphasized that given the limited time that people have, you shouldn't be starting something new, but should build on existing efforts.

There is a need to speak for the emerging communities. Undeveloped areas may not have residents to speak for open space and environmental features today, but it is important to address these questions now

rather than when communities are established (when it is often too late). This will help ensure that these emerging communities enjoy the same access to open space as the existing urban areas have.