

ALTERNATIVE LAND PROTECTION TECHNIQUES

Presented to
Southeastern Massachusetts
Land Trust Convocation
2 February 2013

By

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The Compact of Cape Cod
Conservation Trusts, Inc.

and

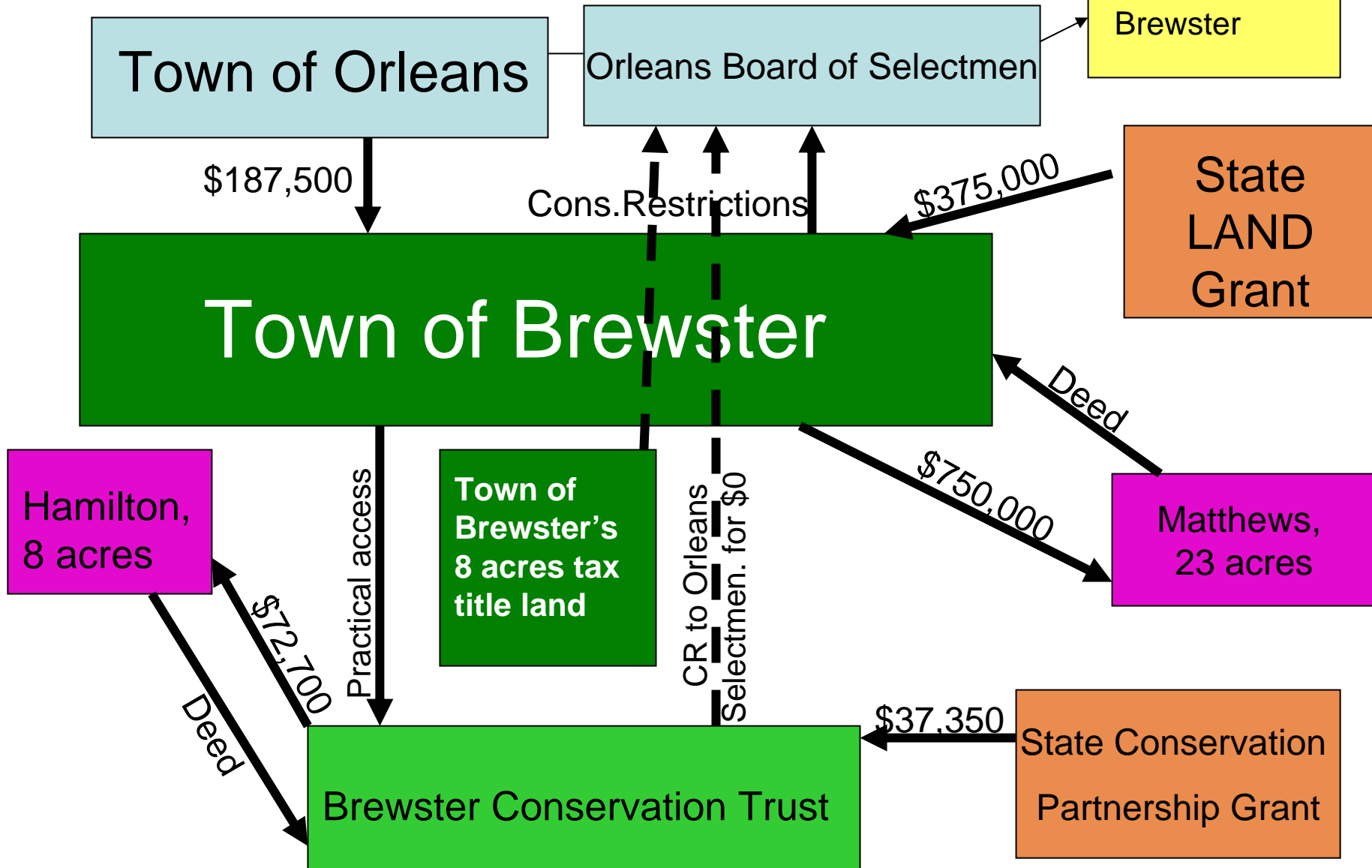
Robert Wilber, Director of Land Protection
MassAudubon

WHAT WE ARE *NOT* TALKING ABOUT TODAY:

- FEE SIMPLE LAND DONATIONS
- CONSERVATION RESTRICTIONS*
**(except in relation to the renewed tax break)*
- FAIR MARKET VALUE PURCHASES
- *Really, Really complicated deals like...*

MATTHEWS PROPERTY FUNDING, 2010

Final Pathway of deals



*All right, let's get the
pretty pictures
out the way first,*

*then you can
concentrate....*

All of Cape Cod looks like this, you know...

Sandy Neck, 6 miles long





**MassAudubon has the best field of
goldenrod on Cape Cod at
Long Pasture Sanctuary, Barnstable**

09/07/2012 13:25

Congratulations to Barnstable Land Trust for saving Fuller Farm, 23 acres, 2012

*To make a prairie it takes a clover
and one bee,--*

One clover, and a bee,

And revery.

The revery alone will do

If bees are few.

- - Emily Dickinson (1830-1886)

a marsh in
Wellfleet

R. I. P.,
Robert G.
Hankey



WHAT WE **ARE** TALKING ABOUT TODAY:

- BARGAIN SALES
- RESERVED LIFE ESTATES
- RIGHTS OF FIRST REFUSAL / OPTIONS
- BEQUESTS
- INSTALLMENT SALES/DONATIONS

TYPES OF TAX BENEFITS

- PROPERTY TAX: TOWN
- INCOME TAX: FEDERAL & STATE
- ESTATE TAX: FEDERAL & STATE
- CAPITAL GAINS: FEDERAL & STATE



"It's a little less amusing when you hear your kids calling it 'the death tax.'"

CONSERVATION TAX BENEFIT PRINCIPLES

- Same regardless if conveyance is to town, state or non-profit land trust
- Landowners must “run the numbers” for their own situation, with own advisors
- The higher the tax bracket, and the higher the appraised value, the greater the deduction = greater tax savings
- EX: \$10,000 gift means \$3,500 savings to 35% bracket, but only \$1,500 to 15%'ers.

Enhanced Tax Benefits for 2013

BOTTOM LINE:

Never been a better time to preserve land and generate income tax benefits

Both State and Federal credits/deductions

Even lower-income donors can now benefit

“Accelerate and Extend”

Take BIGGER deductions each year
AND

Enhanced Tax Benefits for 2013

- Raise carry-forward from 5 to 15 years and raising the cap on income tax deductions from 30 percent of a donor's income to 50 percent
- Re-authorized back into law Jan. 2013 (Amer. Tax Relief Act, “fiscal cliff” stuff)
- For both Conservation Restrictions and Reserved Life Estates
- Expires at end of 2013 unless renewed by Congress; LTA lobbying to extend

Installment Gifts of Land

- Undivided interest in the whole is given

EX: \$500,000 one-acre lot; 27% tax rate; \$65,000 adjusted gross income

one-shot gift: \$117,500 tax savings over 6 years

phased gift: 1/3 interest given in Years 1, 7 & 13

\$117,500 tax savings over first 6 years

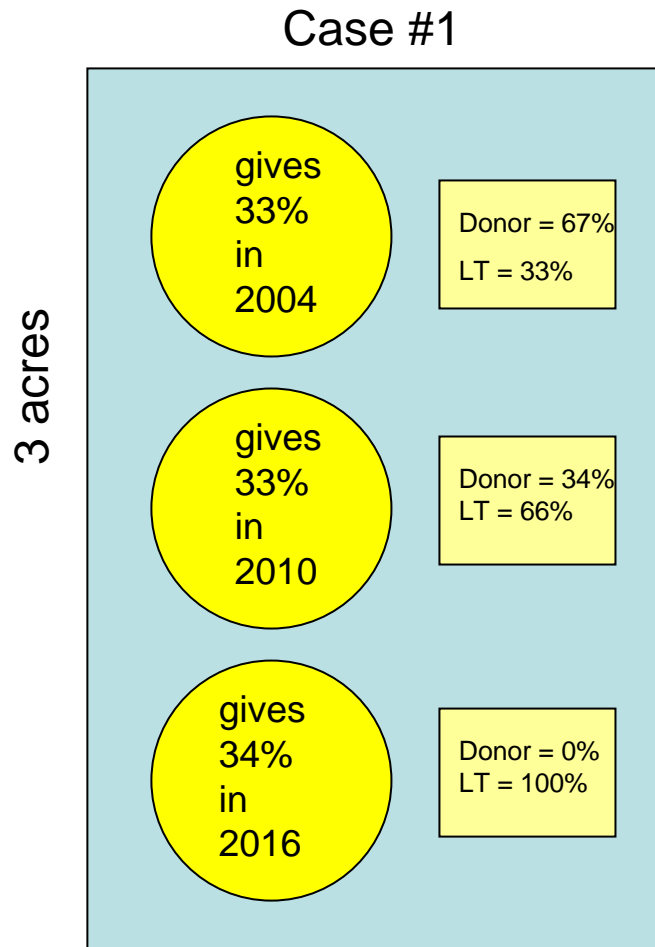
\$117,500 tax savings over next 6 years

\$117,500 tax savings over final 6 years

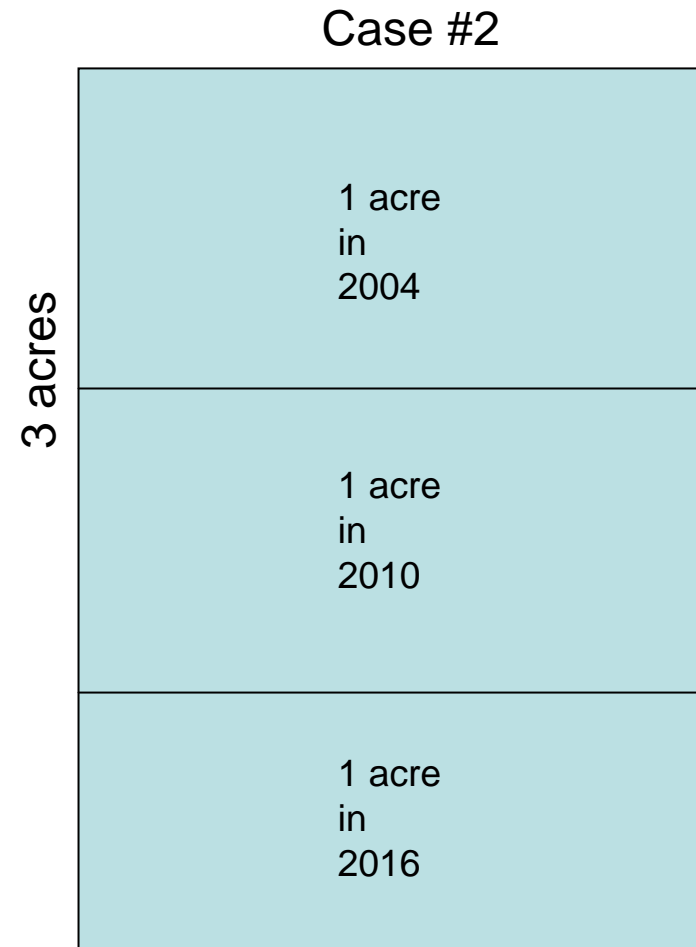
\$351,000 tax savings over 18 years

(adjust for market appreciation in Year 7 & 13)

Installment Gifts of Land



- no subdivision required
- property stays taxed until 100% owned by LT



- subdivision required
- lots no longer taxed as they are donated

BARGAIN SALE

- A sale for conservation at less than FMV
- Brings to seller a mix of cash, income tax savings and capital gains tax relief
- **Stretches** our conservation dollars

Sell \$200,000 property to developer for FMV; basis = \$30,000; owner in 35% tax bracket

Sale at FMV:

- $\$200,000 - \$30,000 = \$170,000 =$ capital gains $\times .25$ (combined rate) = \$42,500 gains tax
- Net proceeds: $\$200,000 - \$42,500 =$
\$157,500

Sell \$200,000 property for conservation for \$150,000; basis = \$30,000; owner in 35% tax bracket

Conservation Sale:

- $\$150,000 - \$22,500$ (pro-rated basis) = $\$127,500$
= capital gains x .25 (combined rate) =
 $\$31,875$ gains tax
- Net proceeds: $\$150,000 - \$31,875 + \$17,500$
(inc. tax ded. 35% of $\$50,000$) = $\$135,625$
- Plus, $\frac{1}{2}$ of $\$50,000$ state tax credit = $\$25,000$ –
35% fed. tax on credit = $\$16,250$ net refund
- **FINAL Conservation Sale Proceeds = $\$16,250 +$
 $\$135,625 = \$151,875$**

BARGAIN SALE NET RESULT

- Net Sale for Development: **\$157,500**
- Net Sale for Conservation: **\$151,875**
- Difference: **\$ 5,625**

Thus, conservation “saved”
\$50,000, and seller only “lost”
\$ 5,625 AND Land Preserved.

- *(does not include broker's fee)*

RESERVED LIFE ESTATE

- A transfer of title during the landowner's lifetime generates the federal income tax deduction
- Landowners retain "exclusive use" of property until their demise
- Property stays on the tax rolls, donor typically pays taxes, insurance, upkeep
- Tax deduction directly related to age of donor, i.e., older the donor(s), the better the deduction because less expected use of the property *(next slide please!)*

Life Estate and Remainder Interest Tables

- 1) Locate the age of the individual on whose life the life estate is based. It may not necessarily be the owner or the life estate holder.
- 2) To determine the value of a life estate, multiply the current market value of the real property by the figure shown under "Life Estate".
- 3) To determine the value of a remainder interest, multiply the current market value of the real property by the figure shown under "REMAINDER INTEREST".

AGE	LIFE ESTATE	REMAINDER INTEREST	AGE	LIFE ESTATE	REMAINDER INTEREST	AGE	LIFE ESTATE	REMAINDER INTEREST
54	.81054	.18946	72	.57261	.42739	90	.28221	.71779
55	.80046	.19954	73	.55571	.44429	91	.26955	.73045
56	.79006	.20994	74	.53862	.46138	92	.25771	.74229
57	.77931	.22069	75	.52149	.47851	93	.24692	.75308
58	.76822	.23178	76	.50441	.49559	94	.23728	.76272
59	.75675	.24325	77	.48742	.51258	95	.22887	.77113
60	.74491	.25509	78	.47049	.52951	96	.22181	.77819
61	.73267	.26733	79	.45357	.54643	97	.21550	.78450
62	.72002	.27998	80	.43659	.56341	98	.21000	.79000
63	.70696	.29304	81	.41967	.58033	99	.20486	.79514
64	.69352	.30648	82	.40295	.59705	100	.19975	.80025
65	.67970	.32030	83	.38642	.61358	101	.19532	.80468
66	.66551	.33449	84	.36998	.63002	102	.19054	.80946
67	.65098	.34902	85	.35359	.64641	103	.18437	.81563
68	.63610	.36390	86	.33764	.66236	104	.17856	.82144
69	.62086	.37914	87	.32262	.67738	105	.16962	.83038
70	.60522	.39478	88	.30859	.69141	106	.15488	.84512
71	.58914	.41086	89	.29526	.70474	107	.13409	.86591

25% FMV deduction at 60 yrs. old

65% FMV deduction at 85 yrs. old

Reserved Life Estate Example on CC

In 2012 a landowner donated her 1.4-acre property on the edge of the marsh to the Land Trust, reserving a life estate for herself and her husband.

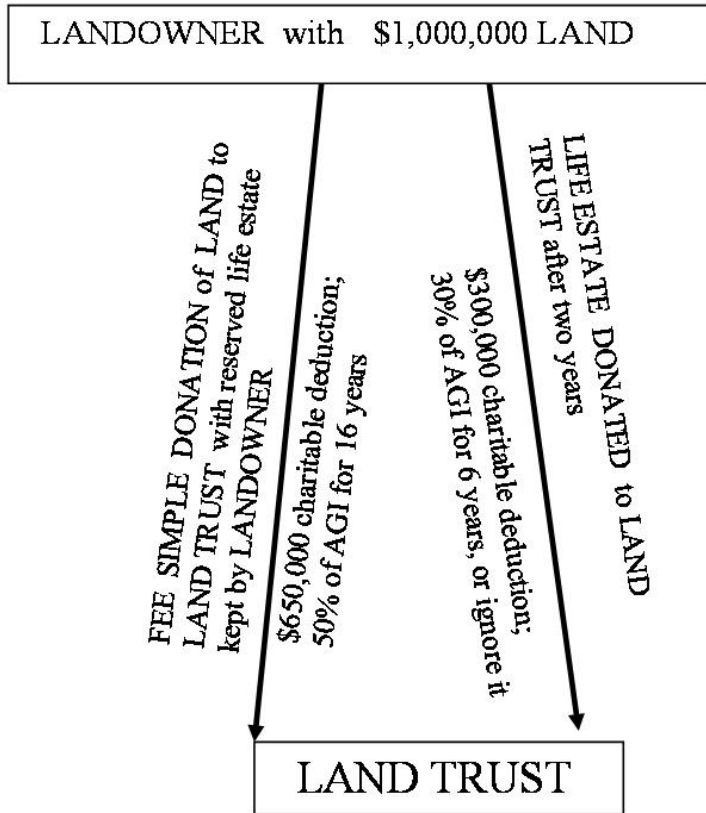


Reserved Life Estate Example on CC

The Land Trust helped the donor to set up a charitable remainder unitrust to benefit the Land Trust, providing funds to demolish the house up against the salt marsh when the couple is gone and to make a naturalized sitting-park/overlook for the public.



NEED TO CONSULT WITH LANDOWNER'S ATTORNEY OR TAX PROFESSIONAL



Didn't he say that reserved life estate donations can be treated like CRs for the enhanced federal tax benefit law?

YES.

Donate Title now with reserved life estate, get the 16 yr, 50% rule, and then Extinguish the reserved life estate.

2013 *tax law change refers to Sec. 170(h) of tax code defining qualified conservation contributions; donation of a partial right is deductible if a reserved life estate is retained by donor; donate the fee simple to the Land Trust now, reserving a life estate in the deed; in a few years, release the life estate to the Land Trust, giving the Land Trust exclusive use of the parcel. Drawbacks: land probably still on property tax rolls during life estate period since non-conservation use; some part of the appraised value of the deduction is lost as "rent" by landowner during the life estate period*

You promised us no complicated deals!

- - - *Sorry, cannot help myself.*



Mill Pond sunset, South Brewster