Attracting Real Estate and Other Non-Cash Gifts for Endowment and Stewardship



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Attracting Real Estate and Other Non-Cash Gifts for Endowment and Stewardship

Topics

1. Expectations
2. Definitions: Legacy Giving, Planned Giving, etc.
3. Legacy Gifts: Unique Opportunities for Land Trusts
4. What we know about Legacy Gift donors
5. Overview of wealth and aging demographics
6. Tax fundamentals
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8. Gift types and their applications

Attracting Real Estate and Other Non-Cash Gifts for Endowment and Stewardship
Topics

9. Case Study: Easement → Retained Life Estate → $ 3 Million
10. Getting started, or moving to the next level
    - Internal audit/SWOT analysis
    - Integrated Action Plan
    - Education and training
    - Board of Directors/Senior Management
    - Marketing/outreach

Attracting Real Estate and Other Non-Cash Gifts for Endowment and Stewardship
Topics

- Stewardship
- Conversations with prospects
- Attitude check
- Develop your Networks
- Resources

12. Start Small, But Start!
13. Questions

Expectations

- Understand where the wealth is. (Hint: Relatively little of it is in cash.)
- Recognize gift opportunities staring you in the face
- Recognize the unique opportunities available to land trusts
- Have a comfort level talking about basic ideas and gift structures, knowing there are specialists who can take over

Expectations

- Understand the basic tax treatment of non-cash contributions
- Understand the situations where different gift types are appropriate
- Have a plan for specific steps to take in getting started with a Legacy Giving effort, or moving to the next level

Definitions: Planned Giving/Legacy Giving

- Deferred gifts →Planned Gifts → Gift Planning
- A problem-solving process that helps donor and non-profit arrive at a gift strategy that best meets objectives of the donor and the needs of the charity.
- Gifts from wealth, not income
- "Legacy Giving"
- Gifts involving more reflection, planning, and complexity; involving technical and legal matters
- A gift reflecting donor's hopes and dreams

Definitions: Planned Giving/Legacy Giving

- Helping people realize they have charitable capacity they didn't know they had
- Cash or any other asset can be given
- Can be revocable or irrevocable
- "It's an inquiry, not an ask."
- "Non-profits that turn to planned giving as a 'last resort,' rather than to facilitate both current and long-term giving, are leaving lots of wealth on the table for others to harvest."
- "Without planned giving, non-profits are destined to fail."

Planned Giving/Legacy Giving Definitions

Fundraising Component	Donor Sources	Land Trust Uses
Annual giving /membership	Cash Income	Operating Budget
Project fundraising /capital campaign	Savings, non-cash assets	Special projects, endowment
Planned giving /legacy giving	Estate, non-cash assets: real estate, life insurance, retirement funds, securities, etc.	Stewardship fund, endowment

Legacy Gifts: Unique Opportunities for Land Trusts

- Land trusts *have to be around forever* – unlike other non-profits. Donors can easily understand the perpetual responsibilities of a land trust.
- Stewardship ↔ Legacy ↔ Legacy Giving
- Land trusts develop trusting, *very personal relationships* with members and donors
- Land trusts have *special expertise in the area of real estate* – and gifts of real estate (especially non-conservation real estate) form a huge part of the legacy gift opportunity.
  - Real estate is the single largest asset category for American households

What we know about Legacy Gift donors

- They have sufficient assets for retirement and for heirs
  - Appearances are deceiving
  - They may be "cash poor" and "asset rich"
  - The fewer children, the better
- Typically 70 and older, but planting seeds early (even in the 40s) pays off
- May have made regular modest contributions over a long period of time – or maybe not.

What we know about Legacy Gift donors

- Likely own highly appreciated property: stock, real estate, family business
- Smart and curious -- Know a good thing when they see it, willing to take time to learn new planning techniques
- Concerned about the time and energy involved in managing their assets – especially real estate
- Want to simplify their financial life.

What we know about Legacy Gift donors

<u>Why They Give</u>

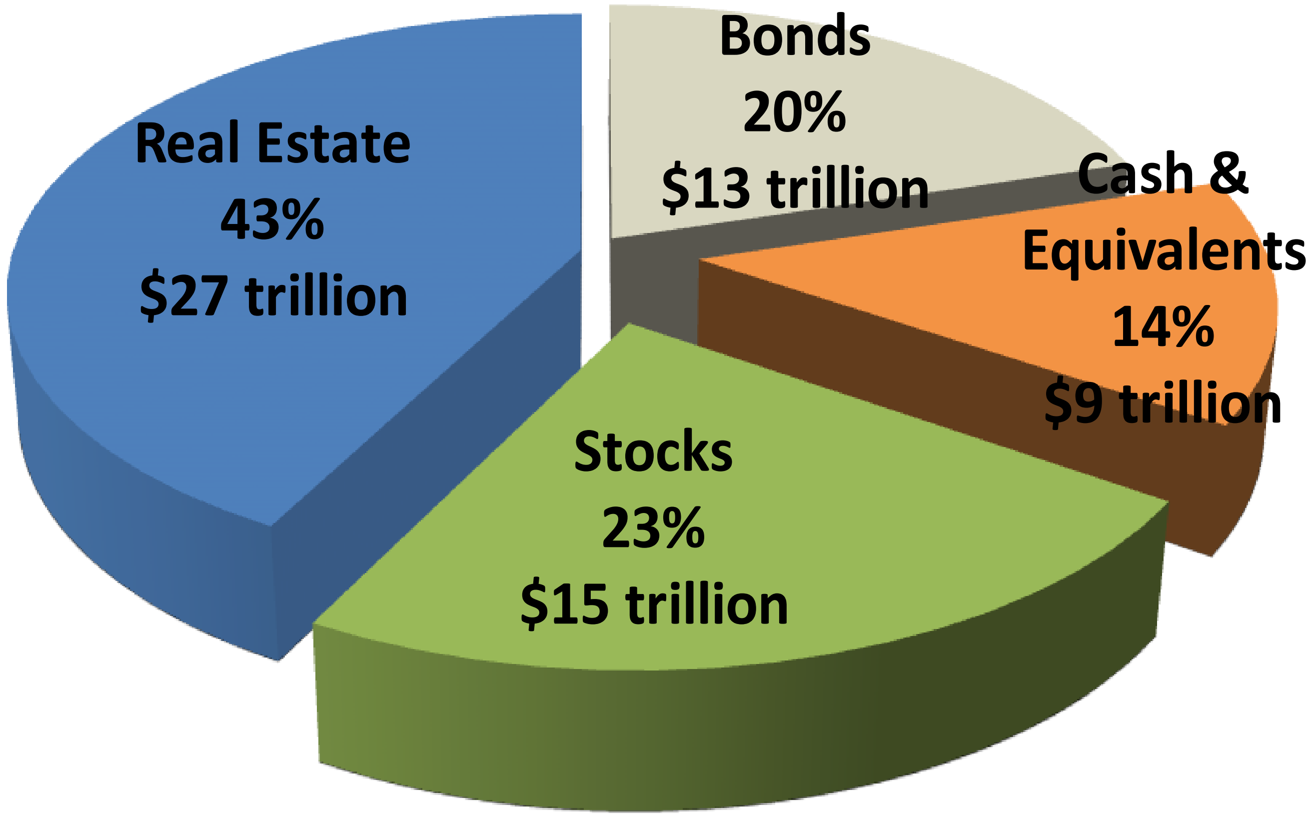
- To help the organization do its important work long after they are gone – Leave A Legacy
- To make a gift that costs little or nothing to make now
- To make a gift that fits with tax planning
  - Save on income taxes by generating a tax deduction
  - Avoid or defer capital gains taxes on sale of appreciated assets
  - Avoid or eliminate potential estate tax
- To supplement retirement income

What we know about Legacy Gift donors

Why They Give

- *In the case of real estate*, to unburden themselves from responsibilities and expenses of continued ownership/management of real estate
- To express gratitude
- To honor a loved one

Overview of wealth and aging demographics



Source: Urban Land Institute

Overview of wealth and aging demographics

Wealth Transfer Studies

- Projected $41 trillion transfer of intergenerational wealth from 1998 to 2055
- Of this, real estate transfers could be over $14 trillion.
- Total bequests projected to be from $12 trillion to $25 trillion over 55 years.

Source: Schervish and Havens, Boston College

Overview of wealth and aging demographics

Dramatic long-term increase in median net worth for 65+ households

In 2010 dollars

	1984	2009	Change
All	$65,293	$71,635	10%
Younger than 35	$11,521	$3,662	-68%
35-44	$71,118	$39,601	-44%
45-54	$113,511	$101,651	-10%
55-64	$147,236	$162,065	10%
65 and older	**$120,457**	**$170,494**	**42%**

Source: Pew Research Center

Overview of wealth and aging demographics

Long-term capital gains in stocks

- If today's 72-year old had invested $1000 in the market in 1981 (at age 40), it would be about $13,000 today. (Average 9% compounding over 40 years, Dow Jones Industrial Average.)
- For someone who invested in the market low point in 2009, their investment has roughly doubled.

Overview of wealth and aging demographics

Real Estate

- Real estate is the single largest asset category for American households
- For the top 10% of households (by net worth) real estate assets make up 48.3% of net worth.
- For persons over 65 years of age, 83% of that real estate is debt-free

> "***Among property owners 50 and older, 18% of them will sell a piece of real estate in the next 18 months.***"
>
> **- John Brown**

Source: Federal Reserve Board "Balance Sheet of Households and Nonprofit Organizations," September, 2010; and "Survey of Consumer Finances"

Overview of wealth and aging demographics

Much of this Wealth is in Second, Third, Fourth… Homes

- In 2005, 1 in 10 households owned 2 or more properties
- 1 in 25 owned 3 or more properties
- For top 10% of households (by net worth), 62% of their real estate equity was in second homes and investment properties
- 39.9% of 8.4 million homes sold were "second" homes
  - → 27.7% owned for investment purposes
  - → 12.2% owned as vacation homes

Source: National Association of Realtors, 2005

Overview of wealth and aging demographics

Types of Properties Reported Given

✓ Second/vacation homes and rental residential properties	30%
✓ Primary residence	20%
✓ Undeveloped land	17%
✓ Commercial properties	12%
✓ Farms and ranches	12%
✓ Land with conservation value	3%
✓ Time shares	2%
✓ Industrial properties	1%
✓ Other	1%

The message for land trusts: Think beyond Land. Think about Real Estate.

Source: 2008 Survey of Membership of National Committee on Planned Giving

Tax Fundamentals

Federal Income Tax: Charitable Deductions

(for taxpayers itemizing their deductions – about 1/3 of all taxpayers)

- Gifts of Cash are deductible up to 50% of Adjusted Gross Income (AGI), with a 5 year carryforward for any excess.
- Gifts of Appreciated Capital Assets (stock, real estate, etc.) held for more than 12 months are deductible up to 30% of AGI, with a 5 year carryforward for any excess.
  - The 50% Election: If claiming a deduction based on the property's "cost basis", rather than its appreciated value, the Donor may take a charitable deduction of up to 50% of AGI, with five years of additional carryforward. This election may make sense for gifts of minimally appreciated property or if the donor can't use the full deduction over six years.

Tax Fundamentals

Federal Income Tax: Charitable Deductions

(for taxpayers itemizing their deductions)

- Gifts of Tangible Assets (art works, book collections, antiques, etc.) have special deductibility rules:
  - If the asset is **related** to the organization's charitable purpose, the donor can deduct the fair market value of the asset, up to 30% of AGI, with a five year carry over for any excess, and the donor will avoid capital gains tax on any appreciation.
  - If the asset is **unrelated** to the organization's charitable purpose, the donor can deduct only the cost basis (or market value, if lower) up to 50% of AGI, with a five year carry over for any excess.

Tax Fundamentals

Federal Income Tax: Capital Gains Tax

- When an appreciated capital asset is sold, the seller pays a tax on the amount of appreciation. Generally, when donors give appreciated capital gain assets which they have owned for more than 12 months, they can deduct the full fair market value of the assets, completely avoiding the capital gains tax.

- Currently, capital gains tax rate is 15% for appreciated assets held more than 12 months, and 20% for earners with income over $400,000 ($450,000 for joint.)

  - 0% for taxpayers at 10% and 15% tax brackets

- Plus, new 3.8% investment income tax for earners over $200,000 ($250,000 joint)

Tax Fundamentals

Estate and Gift Taxes

- Estate and gift taxes are transfer taxes due when combined lifetime gifts and estate at death exceed current exclusion amount of $5.25 million (indexed to inflation).
  - Unused exclusion portable to surviving spouse.
- Estate taxes are paid by the decedent's estate – not by heirs.
- Current federal rate is 40%.
- Bequests to qualified charities are made with no estate tax due. There is no percentage limitation on such testamentary gifts.

Tax Fundamentals

Substantiation/appraisals

- For non-cash gifts over $500, IRS form 8283 must be filed by taxpayer
- For non-cash gifts over $5000, qualified appraisal and IRS form 8283 signed by the charity, filed by taxpayer
    - The appraisal must be completed no earlier than 60 days prior to the gift, and no later than the date on which the return claiming the deduction is filed.
- If the charity disposes of the property within three years of the gift, IRS form 8282 must be filed, reporting the sales price.

Assets That Can Be Given

- Cash
- Securities
    - Stock: Common stock, preferred stock, closely-held stock, C-Corp shares, S-Corp shares, LLPs, LLCs, etc.
    - Stock options
    - Bonds
    - Mutual funds
- Real estate
- Tangible Assets
    - Furniture, office equipment, motor vehicles, mobile homes, collections,
- Insurance policies
- Intangible Assets
    - Copyrights, patents, etc.

Gift Types and their Applications

Gift Type	Donor Situation	Real Estate As Funding Asset	Assets To Fund	Tax Benefits	Typical Minimums
Outright Gift	• Donor seeks immediate impact • Donor may or may not want immediate recognition • Donor able/eager to part with asset now	• Donor eager to be unburdened from hassles and expenses of continued ownership and management	Cash, real estate, securities, other appreciated assets	• Maximum charitable deduction • Capital gains avoided • Removes from taxable estate	N/A
Bequest	• Donor wants gift made at death • Donor wants flexibility to change mind • Donor wants to preserve liquidity	• Donor OK with executor distributing real estate assets	Cash, real estate, securities, other assets	• Removes from taxable estate	N/A
IRA Charitable Rollover (when allowed by law)	• Donor's retirement needs taken care of • Donor maintains current liquidity • Donor likes ease of making a major gift with just a beneficiary designation form		IRA only (Not 403(b) or 401(k))	• Removes from taxable estate • Avoids possible taxation of heirs • No charitable income tax deduction • (But not recognized as income either.)	N/A

Gift Types and their Applications

Gift Type	Donor Situation	Real Estate As Funding Asset	Assets To Fund	Tax Benefits	Typical Minimums
Life Insurance Beneficiary Designation	• Unneeded life insurance policy • Donor maintains liquidity		Insurance policy	• Removes from taxable estate • Charitable deduction for basis, and for ongoing premium payments	
Charitable Gift Annuity	• Donor seeks increased retirement income • Donor wants stable, guaranteed cash flow	• Deferral one or more year often makes sense • Charity confident about marketability of the property • CGA rate typically adjusted downward	Cash, real estate, securities	• Charitable deduction, often for about 50% of asset value • Partial capital gains avoidance for appreciated asset gifts • Tax advantaged stream of payments	$10,000 cash and securities; $100,000 real estate
Charitable Remainder Trust	• Donor seeks increased retirement income • Donor OK with variable, more risky, cash flow • Donor likes flexibility to tailor cash flows to particular situations	• Donor will be asked to contribute cash to cover holding costs • Property cannot be mortgaged • Options for trustee role during ownership and sale of property	Cash, real estate, securities, other appreciated assets	• Avoidance of capital gains tax on appreciated assets • Partial income tax deduction • Tax advantaged stream of payments	$100,000

Gift Types and their Applications

Gift Type	Donor Situation	Real Estate As Funding Asset	Assets To Fund	Tax Benefits	Typical Minimums
Bargain Sale	• Donor seeks some current cash • Donor wants gift to have immediate impact; immediate recognition • Donor comfortable handling own investments	• Charity has working capital for upfront purchase	• Real estate, other assets	• Benefits of outright gift, on a pro-rata basis	Charity’s share should be at least $50,000
Retained life estate	• Donor wants continued use of and responsibility for property • Donor can get income tax deduction with RLE, as opposed to by bequest • Donor gets satisfaction of completing gift now	• Charity understands long-range nature of the arrangement • Comprehensive side agreement critical	• Residential (not just primary residence) or agricultural property	• Charitable deduction for remainder share going to charity	$100,000
Charitable Lead Trust	• Donor seeks to pass assets to heirs with minimal estate and gift tax consequences • Donor desires to make current impact with giving	• Income producing property is ideally suited to CLT	• Cash, real estate, securities, other appreciated assets	• Gift tax for gift to heirs reduced by value of lead gift • Heirs eventually receive property without further gift or estate tax obligation	$100,000

Overview of Gift Structures and Their Applications

Outright Gift

- Yields the largest possible deduction for the donor.
- Yields the largest possible gift for the non-profit.
- Funds are available here and now – or as soon as asset is liquidated.
- *Don't underestimate how many people are in position, indeed motivated, to make an outright gift.*

Gift Types and Their Applications

<u>Bequests</u>

- Can be made in a will, or in a testamentary trust.
- Not effective until death.
- Revocable – most people rewrite their wills many times.
- Can be in the form of
  - Specific amount of cash
  - Specific assets, other than cash
  - Percentage of estate
  - Residue of estate
  - Contingent

Gift Types and Their Applications

Bequests

- Preserve flexibility
- Preserve liquidity
- In 2007, average college/university realized bequest was $162,000. (Council for Advancement and Support of Education.)
- About 80% of planned giving revenue comes from bequests.
- The Nature Conservancy reports an average of $100 million per year in realized bequests.

Gift Types and Their Applications

Retained Life Estate

- aka Reserved Life Estate, or donating a Remainder Interest.
- Real estate (a residence, or an agricultural property) is deeded over to a charity, subject to one or more individuals retaining a "life interest" in the property.
- The charity has title to the property, but not possession of the property.
- "Life tenants" retain full use of the property, and full responsibility for taxes, insurance, maintenance, etc.
- Clear written agreement covering major improvements, incapacity, vacating the property, etc., is essential.

Gift Types and Their Applications

Retained Life Estate

- Tax deduction is a function of age, interest rates, salvage value, percentage of property that is depreciable.
- It's essential that donee charity maintain close contact with the property and the life tenants to avoid deterioration of the charity's asset.
- Today's historically-low IRS discount rates make RLE gifts very attractive.

Gift Types and Their Applications

Retained Life Estate IRS Deduction Percentages (approximate)

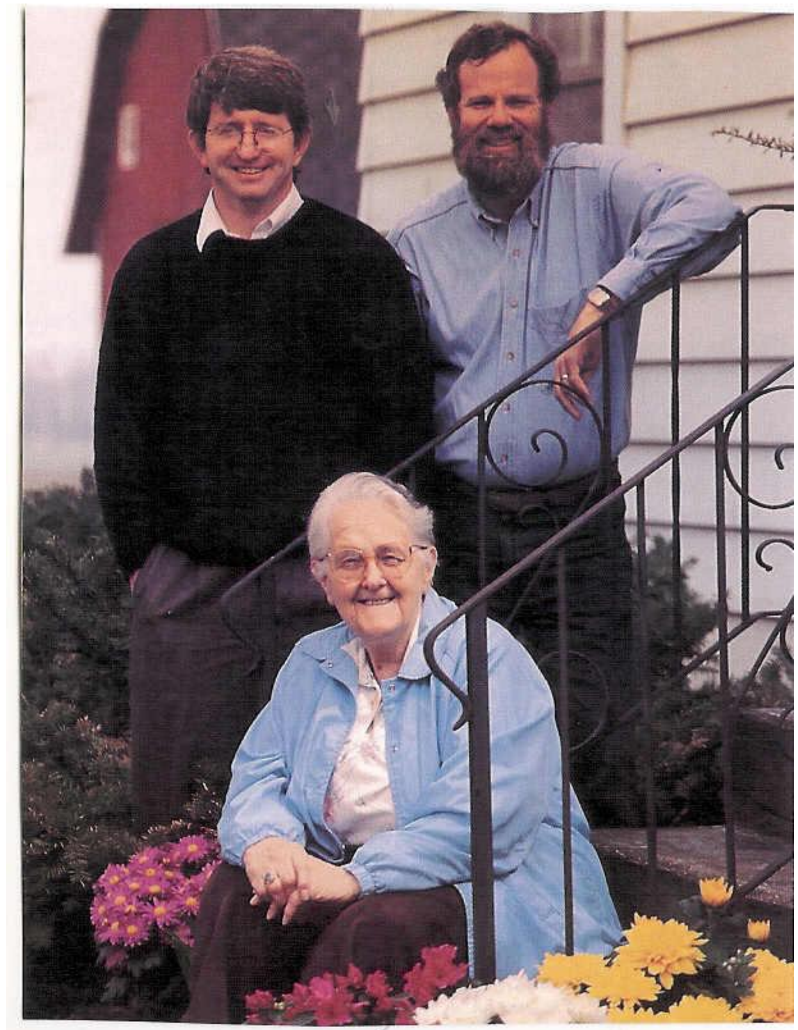
Single Life	%	Joint Lives	%
56	59%	56, 54	49%
66	70%	66, 64	61%
76	80%	76, 74	73%
86	88%	86, 84	83%
96	94%	96, 94	91%

Assumed discount rate: 1.0%

Gift Types and Their Applications

	Bequest	Retained Life Estate
Continued use of property	Yes	Yes
Continued responsibility for taxes, repairs, etc	Yes	Yes
Removal of asset from taxable estate	Yes	Yes
Charitable income tax deduction	No	Yes
Recognized now for generous gift?	No	Yes
Asset avoids probate process	No	Yes
Decision is	Revocable	Irrevocable

Case Study: Easement to Retained Life Estate to $3 Million



Case Study: Easement to Retained Life Estate to $3 Million

<u>Owen and Ellen Love, Kalamazoo County, Michigan</u>
<u>*The Conservation Easement phase*</u>

- Long-time owners of 662 acre farm, almost all prime agricultural soils
- Donated a conservation easement to AFT.
- Rented the farm to a local farm family.
- Had written the farm into will as a bequest to a local university.
- On a routine easement monitoring visit, Loves revealed they were unhappy with the university, because it had recently sold, for development, a donated farm.
- This prompted discussion of alternatives, including leaving the farm to AFT instead.

Case Study:
Easement to Retained Life Estate to $3 Million

Owen and Ellen Love, Kalamazoo County, Michigan
The Retained Life Estate phase

- The advantages of a retained life estate, rather than bequest, were explored.
- Five years after the easement donation, the Loves donated their farm to AFT, subject to a joint retained life estate.
- This triggered a charitable tax deduction in the range of $750,000.
- One month later, Owen died, triggering agreed annual payments to Ellen for her life estate.
- Ellen stayed living on the farm, which continued to be rented to long-time tenants.

Case Study: Easement to Retained Life Estate to $3 Million

<u>Owen and Ellen Love, Kalamazoo County, Michigan</u>

<u>The Property Disposition Phase</u>

- Ellen died several years later; rental to farm family continued.
- In 2009, AFT decided to sell the farm, subject to an updated conservation easement.
- Long-time tenants were given every opportunity to purchase, but declined.
- In 2010, the restricted farm sold for over $3,000,000 ($4500/acre) to another long-time local farm family.
- Some portion of proceeds available for land protection acquisitions in Michigan.
- Bulk of the fund set up as the Owen and Ellen Love Revolving Fund

Case Study: Easement to Retained Life Estate to $3 Million

Owen and Ellen Love, Kalamazoo County, Michigan

Followup

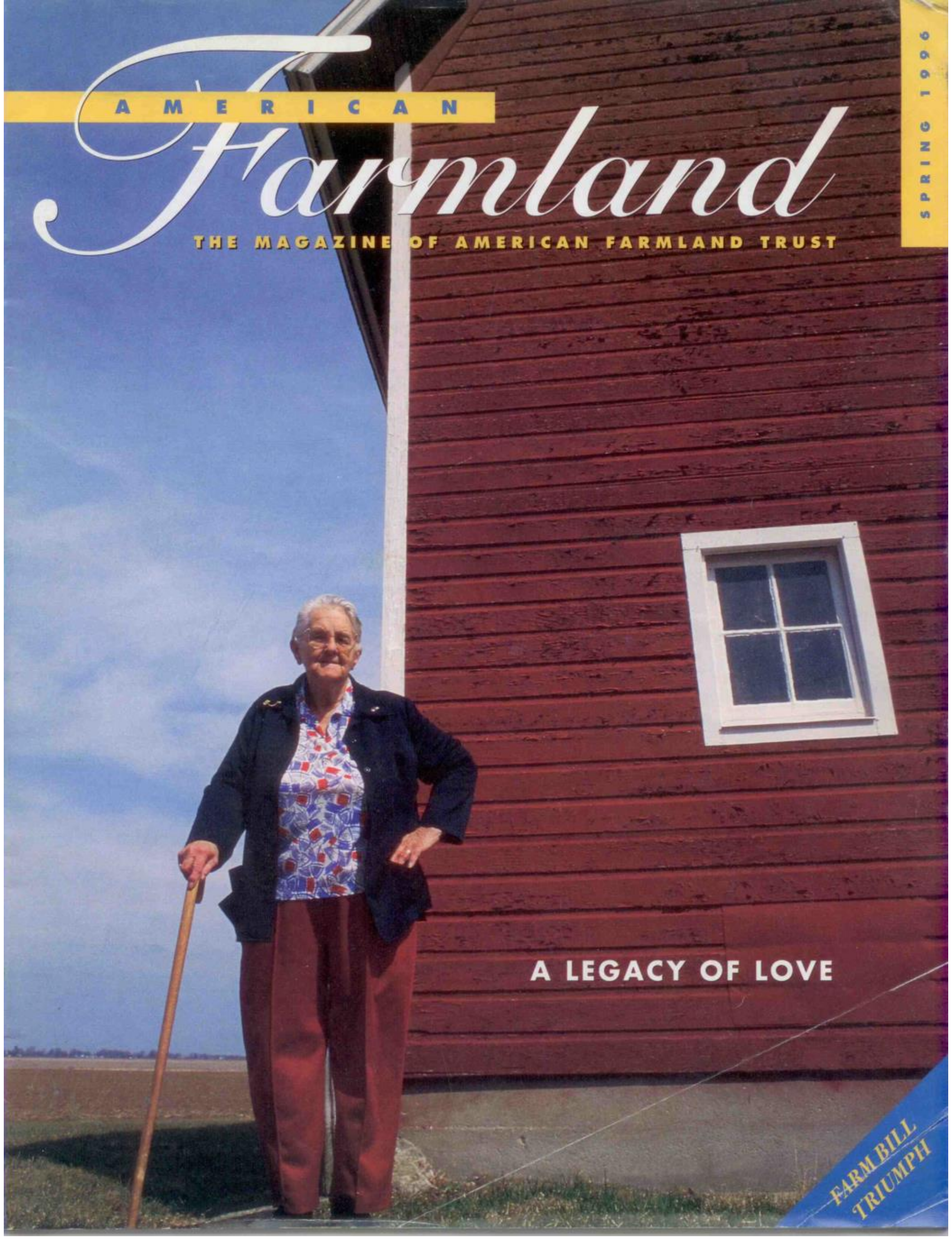
- The experience with Loves prompted creation of AFT's Farm Legacy program.
- The story of the Loves was heavily promoted.
- In the years ahead, AFT completed many real estate gifts: outright, charitable gift annuity, charitable remainder trust, retained life estate.
- These gifts solved particular problems facing property owners, while resulting in substantial gifts to AFT.

Case Study: Easement to Retained Life Estate to $3 Million

<u>Owen and Ellen Love, Kalamazoo County, Michigan</u>

<u>*Lessons Learned*</u>

- Easement donors are often very loyal and motivated to provide further help to your Land Trust.
- It's all about relationships, combined with technical problem solving.
- Stewardship staff should be trained to recognize clues, e.g. we're thinking of changing our will.
- Stewardship staff are critical ambassadors of the organization, serving sometimes as "gift officers."
- People considering a bequest including real estate should always be presented with the retained life estate alternative.
- Aim for maximum flexibility regarding restrictions on use of funds once property is disposed of.


AMERICAN
Farmland
THE MAGAZINE OF AMERICAN FARMLAND TRUST
SPRING 1996
A LEGACY OF LOVE
FARM BILL TRIUMPH

Getting Started/Moving to the Next Level

Internal Audit: SWOT Analysis – Land Trust Example

Strengths	Weaknesses
• Landowner/donor loyalty - Especially Easement Donors • Strong case to make for perpetuity/legacy • Real estate expertise • Community and professional networks • Visibility	• Only one full-time development/communications person • Board more focused on near-term, not the long term • Board doesn't get Planned Giving/Legacy Giving • We don't know enough about our donors • Website needs lot of work
Opportunities	**Threats**
• Untapped wealth, especially real estate • We're the only land trust with a strong local presence • Professional advisor networks/workshops • Unidentified prospects out there • Partnership with Community Foundation? • Partnership with local college/university?	• Economy still sluggish, slow to rebound • Uncertainty in markets, political environment • Tax lax uncertainty • Other institutions – colleges, museum, hospital – are developing planned giving programs • Long-term process • Board could lose interest before results come in • Spreading ourselves too thin

Getting Started/Moving to the Next Level

Integrated action plan – Where Legacy Giving fits in the big picture

- Strategic plan
- Annual support and major gift fundraising
- Gift acceptance policies and procedures
- Donor stewardship
- Easement stewardship
- Marketing and outreach strategy
- **Legacy Gift/Planned Giving initiative**
- Capital campaign planning
- Board development

Getting Started/Moving to the Next Level

Education and training (staff and board)

- Local planned giving councils
- Community foundation workshops
- Conferences
- Webinars
  - ***Shameless Plug: LTA Webinar Oct. 22, 2013 2:00 pm***
- Journals/publications

Getting Started/Moving to the Next Level

Board of Directors/Senior Management

- Needs to be actively supportive of the Legacy Giving program
- Should lead by example – Leadership gifts.
- A Legacy Giving Committee, or PG topics regularly on Development Committee agenda
- Should be able to recognize "clues" to legacy giving possibilities that come up in conversation with friends, prospects

> ***"A real estate gift is sitting at the table at every Board meeting. It's just that no one has ever connected the dots."***
>
> **- John Brown**

Getting Started/Moving to the Next Level

Marketing/outreach

- Integrated message
- Have a check-off box everywhere
- Newsletters and media
- Website and emails
- Testimonials from donors
- Impact stories – not just the gift, but what the gift made possible
- Local attorneys/CPAs/financial planners/realtors

Getting Started/Moving to the Next Level

<u>Stewardship</u>

- Visits to existing donors
- Easement stewardship visits aren't just about easement monitoring!
- Invitations to events, openings
- Legacy Society
  - Bequest intentions
  - Realized bequests
  - Outright and planned gifts of a certain size

Getting Started/Moving to the Next Level

Conversations with Prospects

- Visits/Calls are 50 times more effective than mailings
- Tell your story
- Ask your donor to articulate their vision
- Let them tell you why it's important to them
- Let them tell you that now is not a good time
- Listen to why this is not a good time
- Talk about what they can do now

Getting Started/Moving to the Next Level

<u>Conversations with Prospects</u>

- "Would you consider making a gift if I could show you how your financial (and retirement) objectives could be met, as well as your charitable objectives…?"

- "That's a really good question!"

- "What are your plans for the Florida home you've mentioned over the years?"

Getting Started/Moving to the Next Level

Attitude Check

Remember:

- It’s an inquiry, not an ask.
- It‘s about helping them realize they have charitable capacity they never realized they had.
- It’s about helping them to achieve their goals.
- It’s about *problem solving*, not begging for a gift.

Getting Started/Moving to the Next Level

Develop Your Networks

- Community foundations
- College and university planned giving departments
- Start a group of peers
- Professional advisor networks: lawyers, financial advisors, CPAs, realtors

Legacy Planning: Getting Started/Moving to the Next Level

Resources

- Planned Giving Design Center
  www.pgdc.com/
- Planned Giving Today
  www.liebertpub.com/overview/planned-giving-today/235/
- Partnership for Philanthropic Planning (PPP or the new NCPG)
  www.pppnet.org/
  - "Are you ready for planned giving?"
    www.pppnet.org/resources/ready-gg/html
- IRS website
  www.irs.gov/

Start Small, But Start!

- Take it one step at a time
- Start with bequests
- And retained life estates
- Don't be afraid to ask for help
- Most of all: Don't get caught in the chicken and egg dilemma.

Thank You.

Questions?

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