



2017 *Land Trust Standards and Practices: What's New*
Wisconsin Land Trust Retreat
Madison, Wisconsin ~ February 9, 2017





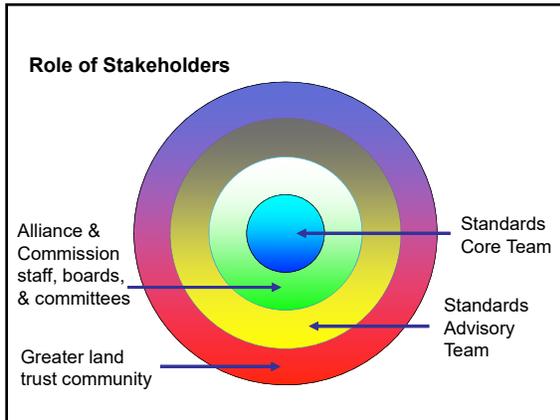
Purpose of Today's Session

- Overview of the Standards revisions *process*
- Highlights of *changes* made
- *Implementation* of Standards revisions
- Implications for *accreditation*



Goals of 2016-17 Revisions Process

- Engage all land trusts with work of pursuing excellence and continuous improvement
- Make the Standards accessible for entire land trust community
- Update to reflect changes in legal and operational environment
- Ensure alignment with accreditation, Terrafirma and other resources and tools



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Community Input Phases: What We Heard

- About 1,600 individual comments from more than 450 different stakeholders
- Multiple ways to participate:
 - In person, including Gathering Waters Retreat in March 2016
 - Online discussion platform
 - Email comments
- Complete cross-section of the land trust community – everyone was represented

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Community Input Phases: What We Heard

- Vast majority loved the new format
- Some general concerns
 - Philosophical disagreements
 - More written policies and procedures
 - Some confusion about accreditation
- Comments underscore importance for good background materials

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Introduction to the Revised Standards

- Printed copies
- Land Trust Alliance Board approved 2/2-3/17
- eNews announcement 2/15/17

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Introduction to the Revised Standards

- Retained 12-standard framework
- More readable and streamlined document
 - Focuses on practices that apply broadly to land trust community
 - Improves clarity, provides more specificity, reduces redundancy
 - Organizes the practices into elements
- Designed as online resource
 - Clearly highlights those items that lead to accreditation
 - Links to Alliance resources, narratives and requirements

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Practice 9H. Title Investigation – 2004 version

The land trust investigates title to each property for which it intends to acquire title or an easement to be sure that it is negotiating with the legal owner(s) and to uncover liens, mortgages, mineral or other leases, water rights and/or other encumbrances or matters of record that may affect the transaction. Mortgages, liens and other encumbrances that could result in extinguishment of the easement or significantly undermine the important conservation values on the property are discharged or properly subordinated to the easement.

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9H. Title Investigation and Recording - Revised

1. Prior to closing and preferably early in the process, have a title company or attorney investigate title for each property or conservation easement the land trust intends to acquire
 - a. Update the title at or just prior to closing
2. Evaluate the title exceptions and document how the land trust addressed mortgages, liens, severed mineral rights and other encumbrances prior to closing so that they will not result in extinguishment of the conservation easement or significantly undermine the property's important conservation values
3. Promptly record land and conservation easement transaction documents at the appropriate records office

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Revisions

- Yellow Highlight indicates a new element
 - But . . . “new” isn’t necessarily new
 - And some things have moved around (“Do not knowingly participate in transactions that are potentially fraudulent or abusive,” for example, moved from Standard 10 (Tax) to Standard 1 (Ethics))
- Blue text indicates an accreditation indicator element (replacing indicator *practices*)

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2017 Standards: Highlights of What’s New

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Standard 1: Ethics, Mission and Community Engagement

★ C. Community Engagement

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Standard 1:

C. Community Engagement

1. Develop an inclusive, welcoming organizational culture that respects diversity.



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Standard 1:

C. Community Engagement

2. Seek to engage people who are broadly representative of the community in which the land trust works and foster opportunities to connect them with the land.
3. Develop and understanding for the land trust's community, and communicate the land trust's work, services and impact in a manner that resonates with and engages that community.
4. Build relationships with community leaders and other stakeholders



Standard 2: Compliance with Laws

A few specifics added, File a 990, for example.





Standard 3: Board Accountability

Reorganized and added specifics, such as “maintain adopted minutes of each board meeting. . .”





Standard 4: Conflicts of Interest

Added specifics, such as do not make loans to board members.



Standard 5: Fundraising

C. Fundraising Plan

1. Develop and implement a fundraising plan or program appropriate to the land trust's size and scope to secure adequate support for its activities.

AND

 **MOVED NON-CONSERVATION LANDS (TRADELANDS) INTO FUNDRAISING STANDARD**





Standard 5: Fundraising

 *Tradelands are a financial asset*

5.D. Non-conservation Real Property for Resale

1. When acquiring non-conservation real property with the intent of selling it to advance the land trust's mission,

- a. Obtain a written acknowledgement from any donor of the land trust's intent to sell before accepting the property
- b. Follow applicable transaction policies and procedures
- c. Maintain the property while in the land trust's ownership in a manner that retains the land trust's public credibility, manages community expectations and minimizes risk



Standard 6: Financial Oversight

A. Fiscal Health

2. **Develop and implement a strategy to address any deficit-spending trends**
3. **Assess the nature and variability of revenue and seek to diversify funding sources**
4. **Build and maintain sufficient operating reserves to sustain operations**

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Standard 6: Financial Oversight

Example of streamlining . . . Moved all of stewardship funding to Financial Standard 6

A.5. Build and maintain dedicated or restricted funds sufficient to cover the long-term costs of stewarding and defending the land trust's land and conservation easements

a. If funds are insufficient, adopt a plan to secure these funds and a policy committing the funds to this purpose

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Standard 7: Human Resources

★ D. Transition Planning

1. Develop a written process or plan to provide for continuity in the leadership and management of the land trust's functions.

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Standard 8: Evaluating and Selecting Conservation Projects

- Reorganized and streamlined!





Standard 9: Ensuring Sound Transactions

C. Environmental Due Diligence
F. Title Investigation and Recording





Standard 10: Tax Benefits and Appraisals

★ **C. Avoiding Fraudulent or Abusive Transactions**



Standard 10: Tax Benefits and Appraisals

C. Avoiding Fraudulent or Abusive Transactions

C. Avoiding Fraudulent or Abusive Transactions

1. Review, on the land trust's own behalf, each transaction for consistency with federal and state income tax deduction or credit requirements
2. Evaluate the Form 8283 and any appraisal to determine whether the land trust has substantial concerns about the appraised value or the appraisal
3. Discuss substantial concerns about the appraisal, the appraised value or other terms of the transaction with legal counsel and take appropriate action, such as
 - a. Documenting that the land trust has shared those concerns with the donor
 - b. Seeking additional substantiation of value
 - c. Withdrawing from the transaction prior to closing
 - d. Or refusing to sign the Form 8283
4. When engaging in transactions with pass-through entities of unrelated parties, particularly those offered or assembled by a third party or described as a syndication by the IRS,
 - a. Require a copy of the appraisal prior to closing
 - b. Decline to participate in the transaction if the appraisal indicates an increase in value of more than 2.5 times the basis in the property within 36 months of the pass-through entity's acquisition of the property, the value of the donation is \$1 million or greater and the terms of the transaction do not satisfy the Land Trust Alliance Tax Shelter Advisory

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Standard 11: Conservation Easement Stewardship

- B. Baseline Documentation Report
- C. Conservation Easement Monitoring
- F. Approvals and Permitted Rights
- H. Amendments


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Standard 11: Conservation Easement Stewardship

B. Baseline Documentation Report

3. When there are significant changes to the land or the conservation easement (such as a result of an amendment or the exercise of a permitted right), document those changes in an appropriate manner, such as through monitoring reports, a baseline supplement or current conditions report.




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Standard 11: Conservation Easement Stewardship

C. Conservation Easement Monitoring

2. Monitor each conservation easement property at least once per calendar year

- a. If the land trust uses aerial monitoring, conduct on-the-ground monitoring at least once every five years
- b. Promptly document the annual monitoring activities for each conservation easement

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Standard 11: Conservation Easement Stewardship

F. Approvals and Permitted Rights

3. Maintain a permanent record of all notices, approvals, denials, interpretations and the exercise of any significant permitted rights

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Standard 11: Conservation Easement Stewardship

H. Amendments

1. Adopt and follow a written policy or procedure addressing conservation easement amendments that is consistent with the [Land Trust Alliance Amendment Principles](#)
2. Evaluate all conservation easement amendment proposals with due diligence sufficient to satisfy the Amendment Principles
3. If an amendment is used to adjust conservation easement boundaries (such as to remedy disputes or encroachment) and results in a *de minimis* extinguishment, document how the land trust's actions address the terms of J.1. below (*Partial or Full Extinguishment*)

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Standard 12: Fee Land Stewardship

B. Land Management and Stewardship

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Standards Implementation

- Development of materials and integration with accreditation requirements
 - Starting summer 2017
- Land trust board adoption
 - As part of membership renewal

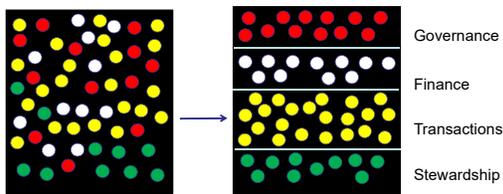
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Adapting Accreditation Program

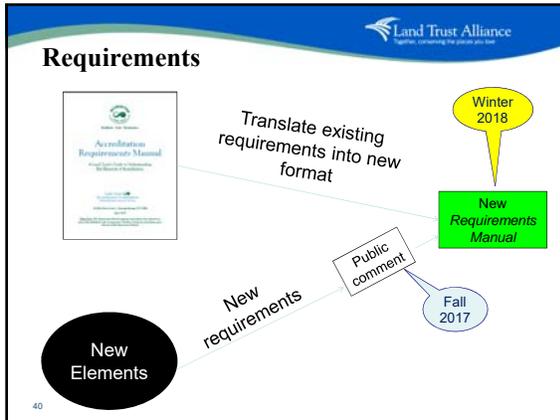
- Indicator Practices → Indicator Elements
- Indicator Elements
 - Keeps Core
 - Title investigation, baseline documentation reports, management plans, monitoring, etc.
 - Drops Redundancy and Low-Risk Areas
 - Charitable solicitation registration
 - Adds Key High-Risk Areas
 - Financial health, transactions, stewardship

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Grouping of Indicator Elements



- Governance
- Finance
- Transactions
- Stewardship



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Your Input

- What type of insurance do you have?
 - General liability?
 - Directors and officers liability?

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Discussion and Questions
