

Update from TLC's Board of Directors

As we approach the end of 2013, TLC's priorities remain very much the same as they were a year ago when we held our AGM. We are committed to paying off our debts, protecting the properties under our care, and streamlining our operations to live within our means. Our chances of achieving our goals are much better since our strategic move to file under the *Companies' Creditors Arrangement Act* (CCAA) was approved by the Supreme Court of British Columbia.

After exploring every option available under existing conditions to achieve our larger organizational goals, on October 7th TLC filed for CCAA protection to definitively resolve the organization's long-standing financial problems. Under CCAA, TLC is working with land consultants to assess all properties and develop a plan consistent with TLC's conservancy mandate and its objective to repay creditors to the greatest extent possible. This involves identifying and prioritizing properties most suitable for sale being mindful of the potential implications arising under trust law and the *Charitable Purposes Preservation Act* (CPPA).

A parking lot adjacent to Abkhazi Gardens in Victoria and Keating Farm Estate in the Cowichan Valley are

two properties that have been identified for early sale. The Abkhazi parking lot has no ecological or historical value. Keating Farm is in the Agricultural Land Reserve, a protective designation that remains in place if it is sold. We had previously listed for sale a residential property in Sechelt, which remains on the market.

We are in this situation because properties were taken into TLC's portfolio without a clear plan as to how the costs of maintenance and protection would be met. Under CCAA, our intention is to definitively resolve TLC's long-standing financial problems. This work is underway now and we are highly optimistic that we will be successful.

Already, in November, TLC received an unsolicited offer for Binning House in West Vancouver. The potential purchaser is a lover and collector of Binning's art, and his expressed intention to us is to preserve its heritage features within the existing conservation framework. In fact, he can do for the house what TLC has not been able to.

When TLC accepted the historic West Vancouver house from the estate of the late B.C. Binning, we stepped in to protect it where no other organization or institution would. After years of trying to maintain the house as a museum, TLC has come to the harsh realization that public funds and donations will not materialize. Despite the repeated campaigns to raise funds, TLC was unsuccessful in raising even sufficient monies to cover Binning House's operating costs. As it stands, an estimated \$200,000 is needed immediately to remediate the house. The Board of TLC believes this recent offer meets the public interest in a viable manner. The



Top: South Winchelsea Island.
Bottom: Elizabeth Lake. Photo credit K. Sheppard.

proposed sale will be considered by the Court in mid-December.

We are committed to keeping TLC's membership informed as we go through this restructuring process. We are encouraged by and very grateful for your continuing support and we encourage you, our members, donors and volunteers, to stay connected and engaged throughout the process. Please send us your questions and comments via email at info@conservancy.bc.ca or by mail to our office in Victoria. We will make every effort to respond either on-line or through the Landmark.

Alastair Craighead
Board Chair



Horsefly River. Photo credit C. Iwan.

A Message from John Shields

John Shields was appointed Director of Operations in August 2013. Below is John's commentary, The Land Conservancy is worth fighting for, which was published in the *Times Colonist* on October 23, 2013.

Friends have asked what on Earth moved me to come out of retirement to take on the leadership of the troubled Land Conservancy of B.C. My response is simple — TLC is an organization worth coming out of retirement for.

TLC's record of preserving natural, cultural and historic properties across B.C. is broadly known and appreciated. Also well known is the urgency of TLC's financial situation. There is no question that a long-term solution is needed if TLC has any hope of regaining the confidence of members and the public.

I have been a member of TLC since the early days of acquisitions in and around Victoria. At the members' meeting in November 2012, I became aware of how acutely troubled TLC had become, with debts bigger than income. My wife and I pledged money to help reduce the debt. And the board pledged to find a solution. I didn't know then that I would be called on to be part of the solution. Two months ago, TLC co-founder and vice chairwoman Briony Penn asked me to help and I could not say no.

TLC needs to get its financial house in order, but it also deserves the chance to continue in its unique role protecting and preserving places the public cares deeply about. To get there, the organization needs a well-managed, fully open and accountable organization and process.

The board has identified the *Companies' Creditors Arrangement Act* as the best process. The CCAA is a federal act that allows financially troubled organizations to restructure their affairs. The court

supervises the process and all activity is transparent. Filing under CCAA means TLC avoids bankruptcy and has the flexibility to create a plan to repay creditors to the fullest extent possible while it also continues to be guided by its mandate to preserve and protect properties.

During the CCAA process, TLC's work continues.

Since it was founded in 1997, TLC has protected thousands of hectares of environmentally sensitive lands, working farmlands and culturally important properties. Equally important, TLC has negotiated hundreds of conservation covenants, which provide long-term environmental protection including on private lands, giving the owners assurance that the land they love will be protected. These covenants require monitoring and attention to ensure they are enforced. This is an important cost-effective way to protect natural areas from development. That work carries on at TLC.

Where governments are constrained by cumbersome restrictions, TLC is nimble and mandated to act. By partnering with the Capital Regional District and other trusts, TLC has been a catalyst and facilitator of enormous value to the environment. This work can continue once the organization is on stable financial footing, where membership dues cover the operating costs.

I have faith in TLC and am committed to helping manage the transition process. I am convinced the board will make the difficult decisions necessary to right the financial ship. I know there will be



John Shields, a TLC Member since the early days, joined the staff as Director of Operations in August 2013.

difficult days ahead. But only by gaining financial sustainability will TLC play the indispensable role it has in the past.

As a long standing member of TLC, I have always made financial contributions to help protect the environment that I and thousands of members hold dear. Now I am honoured to contribute my expertise as well.

Having worked with the TLC staff and board for the past two-and-a-half months, I see the dedication that has made the organization so effective. They are steadfast in wanting TLC to get through this transition. I can see they have learned the lessons from past mistakes, and are determined to realize value from the properties without sacrificing the ecologically essential lands, protecting B.C.'s special places in a new way. I would welcome everyone to help us eliminate the debt and work toward the TLC's future with confidence.

TLC's membership is the bedrock of the organization. The board and I are committed to getting the organization back on track so TLC can continue its good work. We all recognize the value of protecting lands in their natural state. TLC is committed to honouring these goals and to building a stronger organization that will continue to protect precious places in B.C.

Your CCAA Questions Answered

We recognize that members have questions about the CCAA process. In an effort to keep you informed we've compiled some of your questions to help you better understand TLC's restructuring.

What is the CCAA?

The *Companies' Creditors Arrangement Act* (CCAA) is a Federal Act that allows financially troubled organizations the opportunity to restructure their affairs. By allowing an organization to restructure through a formal Plan of Arrangement, the CCAA presents an opportunity for the organization to avoid bankruptcy and allows the creditors to receive some form of payment for amounts owing to them.

Why did TLC file for court protection?

TLC's goal under CCAA is to preserve and protect as many properties as possible and to repay creditors to the fullest extent possible. CCAA gives TLC the time and the flexibility to restructure the organization. The Board has explored every option and done everything possible under existing conditions. This is the only option that can deal with the large number of unique properties and creditors in a way that ensures the best outcomes for all.

How did TLC end up in this situation?

Properties were taken into TLC's portfolio that were not adequately financed and without a clear plan as to how the ongoing costs of maintenance and protection would be met. Our intention is to definitively resolve TLC's long-standing financial problems - and to repay all creditors to the greatest extent possible - while protecting as many properties as possible.

How will the restructuring be done?

TLC is working with land consultants, legal and financial advisors and interested parties in a process conducted under the review of an independent, court appointed Monitor, and under the supervision of a judge of the Supreme Court of British Columbia.

Will properties be sold?

Some properties will be sold subject to the monitor's and court approval, and under conditions that consider the purpose for which they were protected. Under CCAA, TLC will have time and the flexibility to explore partnering with other organizations with a view to selling or transferring certain properties in a way that retains the purpose for which they were originally protected, while also improving TLC's financial situation. Other options may include identifying opportunities to swap properties; transferring densities; and other yet to be identified means of creating value for TLC while preserving the protection on the properties.

Where do membership fees and donations go during this process?

TLC is grateful for support from members and donors in the past, and we welcome and appreciate your on-going support. TLC remains committed to its primary mandate to benefit the community by protecting habitat for natural communities of plants and animals. TLC's daily operations, managing covenants and properties, continue under the leadership of John Shields, who joined TLC as Director of Operations in August.

What is a covenant?

A covenant is a legally binding agreement made on the title of a property which stays with a property indefinitely. Through market fluctuations and as property changes hands, the covenant dictates how the property may or may not be altered or used. For example, TLC has been involved in the transfer of properties to the Capital Regional District to extend the regional park system. With each transfer, TLC holds a covenant to ensure that the property is used only for the

purposes intended. Annual monitoring is needed to enforce the terms of the covenant. TLC continues to perform this work, the cost of which can vary from a few hundred dollars to several thousand dollars per year depending on the location, accessibility, size and complexity of the property and its restrictions.

What are the plans for the future?

Before a detailed restructuring plan can be prepared, TLC must develop an overall property strategy through consultations with potential transferees in respect to specific properties. Management will likely require until the end of the calendar 2013 to complete its assessment of all properties and develop an overall action plan that addresses each unique property.

In the meantime, we will address opportunities as they arise, as is the case with Binning House, for which we received an unsolicited offer in November which is being considered by the courts in mid-December.

When is the Annual General Meeting?

As directed by the court, TLC obtained an extension for the next AGM, which is usual during a CCAA process to provide continued stability while the restructuring process is underway. The Registrar of Companies granted TLC an extension to May 3, 2014.

Other questions and concerns?

TLC is committed to keeping its membership informed as it goes through this restructuring process. Visit TLC's website for updates on the process including copies of court orders and reports from Wolrige Mahon Limited, the court appointed Monitor.

We encourage you to contact TLC with any questions or concerns at 1-877-485-2422 or info@conservancy.bc.ca. ■

A Climate of Change

By Briony Penn
Vice-Chair, Board of Directors

When a group of us started TLC, the common concern was for the neglected ecosystems of the province - the interior and coastal grasslands - where the vast percentage of species at risk lived, whether it was the burrowing owls in the antelope brush or the bluebirds in the Garry Oaks. These last remnants of ecosystems, the most endangered in the country, were on private land, were under-represented in the parks system and showed no signs of being protected by provincial law. Twenty years ago, there was only a handful of organizations doing this work and we believed we could provide another level of support through a flexible membership organization that would bring a new level of grass roots funding and support to the cause.

We looked for models around the world and many of us had personal experience with the national trust in the UK which funded its conservation work by generating revenue from heritage tourism and huge memberships. It turns out this model doesn't work in Canada; we have neither the population base nor the kind of majestic, historic castles to generate visitor revenue. In fact, our conservation properties ended up subsidizing our heritage properties.

In the last two years, the board and staff with help from members and leading experts in the fields of conservation and heritage have looked hard at this issue of where to place our focus and priorities. We have returned to our roots. This makes financial and ecological sense. In the 21st century where our survival hangs on our ability to protect resilient ecosystems that

withstand drought and help us adapt to a rapidly changing environment, the priority must be conservation. The most important message of the 21st century generated by leading conservation biologists including the Canadian Parks and Wilderness Society (CPAWS) is that 'Nature needs half' whether it is letting half our gardens go wild, or eliminating industrial impacts over half the land base of the province.

We need natural ecosystems to sequester carbon since plants are the only things that do. We also need these ecosystems to provide the genetic and species diversity to literally 'weather the storms.' Some of the most innovative work performed in British Columbia has been the mapping of a large conservation network by researchers, ForestEthics and the Nature Conservancy of Canada. These maps indicate that there is critical work to be done in acquiring corridors between protected areas, especially those that lie on private land. Working with local governments to enhance their capacity in these critical lands has been TLC's most successful work to date. This is the niche that TLC can occupy in the grand ecosystem of environmental organizations.

We have learned a lot in the last 16 years about how to protect lands and the trouble that you get into if you don't adequately fund their long-term management. We simply cannot afford the staffing levels we once had to maintain the properties. We have also learned from New Zealand's QEII National Trust, which fell into the same issue of trying to emulate the English model without the membership base. Under its new covenant monitoring model, New Zealand lands are secured,



Briony Penn is the Vice-Chair of TLC's Board of Directors and a founder of the organization.

covenanted, then either transferred to local governments, local groups or the private sector with high standards for monitoring, including penalties, which keep all parties honest.

TLC has a long way to go but we have an emerging plan. We need to find good homes for the bulk of our heritage properties and we can achieve this through the New Zealand model. The revenues we raise will go to repaying our creditors and putting aside an endowment to ensure the 250 covenants we have today will be monitored and defended to the highest standards.

While travelling to the Vancouver courts for the CCAA hearing in October, three humpback whales travelled alongside the three of us attending that day - Alastair Craighead, Nitya Harris and I - reminding us why we were pulling so hard for TLC. Humpbacks have only come back to the Salish Sea because people focused on the return of the whales. We want to focus again on the critical ecosystems of British Columbia and we hope you'll support us since our membership is what will make it happen. ■

Board of Directors

Alastair Craighead ■ Nitya Harris
Mel Lehan ■ Nicole Mackay
Fred Newhouse ■ Briony Penn ■ Francis Pugh
Mary Sanseverino ■ Tom Watson

TLC is honoured to be the recipient of donations in memory of:

"Haley", Malcolm Anderson, Mark Arsenault, Rose Brook, Maurice Danard, Robin Edwards, Jean Farr, Sylvia Gibb, Alan Greatbatch, Pearl Greenberg, Patricia Gye, Edith Haag, Halina Hebda, Pat Hobbs, Manfred Pape, Bernard Rain, Jurgen Westreich, Dr. Jack Whiteside