



# Keeping the Lakehouse in the Family

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# Presentation Goals

- Overview of Legacy Planning
  - Big-picture considerations
    - Goals of owners and beneficiaries
  - Default Planning
    - Probate
    - Tenants in Common
  - Revocable Trusts
    - Right of First Refusal
    - Specific Bequests
  - Irrevocable Trusts
    - Asset protection
- Tools for Legacy Planning
  - Family Camp Trust
  - Family LLC
  - Estate Tax Considerations
    - QPRT Trust
    - Irrevocable Trust
  - Other Tools



# Big Picture Considerations



- What are your goals?
  - Family harmony
  - Togetherness
  - Leaving a Legacy
  - Protecting asset from creditors (yours or others)
  - Ensuring family property stays in family

# Big Picture Considerations

- What are your kids' goals?
  - Amy: ensuring family property stays in family
  - Brooke: traveling around the world
  - Connor: living in California
  - Drake: ????
  - Eli: build a business
  - Francis: pay her bills
  - Gloria: move to the lakehouse full time



# Practical Considerations

- Continuing the Traditions
- Maintenance Costs
- Creditors
- Location
- Other needs
- Balance of estate plan
- “The Conversation”





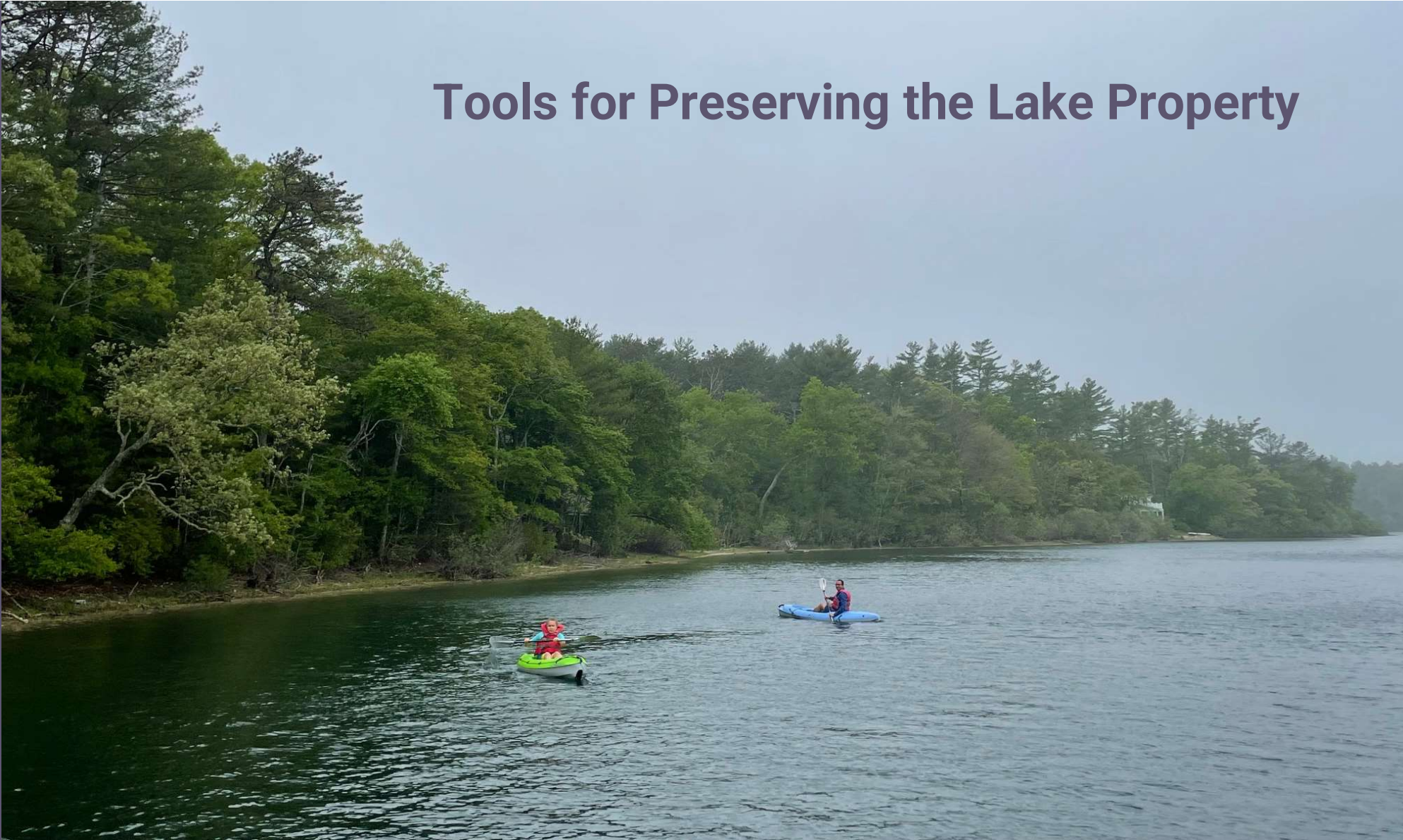
# Default “Planning”

- Probate
  - Timeline
  - Will v. Intestacy
  - Spouses
- Tenants in Common
  - Creditors/Lien
  - Sales of shares
  - Petition to Partition
  - Bequest/Inheritance
  - Enforcement if needed





# Tools for Preserving the Lake Property





# Trusts 101

- Trust Terminology
- Revocable Trusts
  - Very favorable trust code
  - Amendable and Revocable
  - Specific Bequests
  - Right of First Refusal
  - Can be funded during life
  - Becomes irrevocable at death
- Irrevocable Trusts
  - Creditor Protection
  - Long Term Care Planning
  - Estate Taxes



# Family Camp Trust

- Can be Revocable or Irrevocable
- Structure to maintain property for benefit of family
- Sets forth beneficial interests and transferability of those interests
- Designates those who would be the managers of the Trust known as Trustees
- Sets forth how important decisions should be made, including capital assessments/contributions
- NH Trust Code allows for flexibility





## Family Camp Trust Cont'd

- Certificates of Beneficial Interests (CBIs)
  - Branch system allows for equitable interests in camp for each family group
  - For example, if Grantor has 3 children, it may be recommended to have one class of shares for each child. Class A shares for Child 1; Class B shares for Child 2; and Class C shares for Child 3.
- Voting – oftentimes, each class is entitled to one vote
  - Some decisions could require majority vote, while others may require a unanimous vote (e.g. termination)



## Family Trust Camp Cont'd

- Who should serve as Trustee?
- If using the branch system, it is often structured so that each Class nominates Trustee to represent their interests
  - With this structure, each Trustee is entitled to one vote
- Trustees should hold annual meeting to determine capital assessments as well as use of property
- Bylaws/"Operating Agreement": Further rules may be developed by the Trustees





## Family Camp Trust Cont'd

- Transferability of Certificates of Beneficial Interest
  - Oftentimes restricted to family members (do not permit transfers to spouses)
  - May consider restricting power to transfer to others with same class of shares, or at least to other CBI interest holders
  - May prevent transfer to child's creditors
  - If by sale, Trust can set forth terms of sale, including whether there is a right of first refusal for other CBI holders and whether sale would be at a discount.

## Family Camp Trust Cont'd

- Funding of Camp Trust recommended
  - Allows for initial payment of maintenance costs
  - Often such funds are restricted for costs related to the property, and not for withdrawal by the beneficiaries
- Capital assessments
  - Trust can direct who has the authority to set assessments
  - Trust can direct the consequences for non-payment of assessment
    - Lien
    - Loss of privileges
    - Forced sale
- Expenses: Ownership v. Use



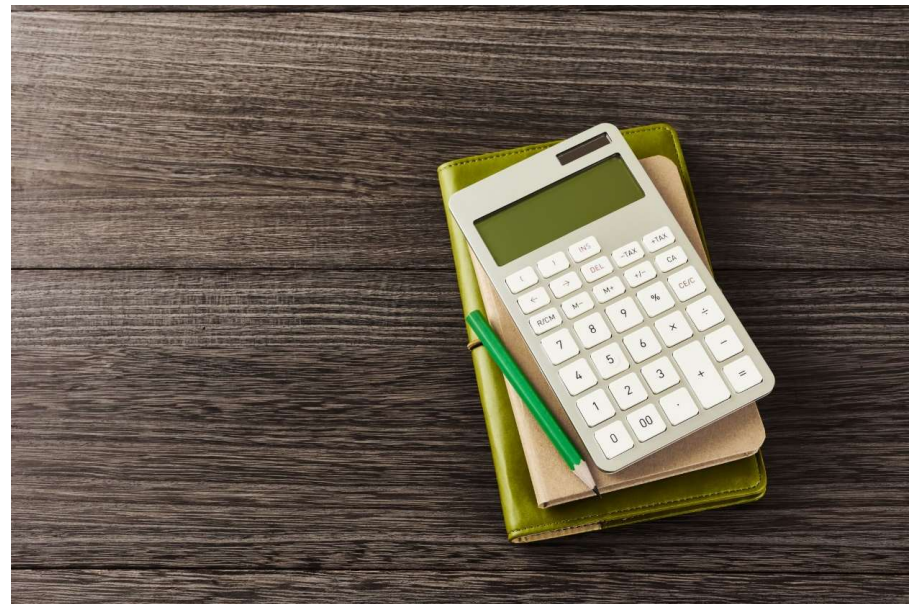


# Family LLC

- Often the structure is similar as a Family Camp Trusts
  - Membership interests mirror certificates of beneficial interests (CBIs)
  - Operating Agreement for LLC can provide similar terms as Trust for election of managers, transferability of membership interests, and capital contributions
- In NH, Trust may be more attractive
  - Trusts can continue in perpetuity
  - NH Trust Code is flexible and allows for certain changes
  - LLCs subject to taxes in NH
  - LLC filing and maintenance
- Rental Considerations

# Estate Taxes

- Gift and estate tax basic exclusion amount in 2024 is \$13,610,000 per individual.
- In 2024, married couples can pass up to \$27,220,000 gift and estate tax free, in part due to portability.
- However, if Congress does not pass legislation prior to December 31, 2025, that those exclusion amounts will be reduced to around \$7,000,000 per individual.



# Qualified Personal Residence Trusts (QPRTS)

- If estate taxes are a concern, a QPRT should be considered
- Permits donor to make an irrevocable gift a remainder interest in their personal residence while retaining an interest for period of time often referred to as the “term.”
- After the expiration of term, the trust ends and the property belongs to the named beneficiaries.
- The donors can stay in the property, but only if the beneficiaries agree and enter into a lease requiring payment of fair market value rent.
- A QPRT is also risky because if the donor dies during the term, the full value of the personal residence is included in the donor’s taxable estate.
- Other restrictions



## Irrevocable Gift/Transfer to Camp Trust for Estate Tax Planning

- Gifts could use some of the gift/estate tax exclusion amount
- Appreciation in property following gift would be outside of your taxable estate
- Can take advantage of annual exclusion gifting by gifting over-time

# Conservation Easements

- Donate a conversation easement to land trust
- Can preserve property, limit use, and prevent further development
  - The restrictions can be tailored to meet your objectives
- Preserves ownership of property subject to the easement restrictions
- Can reduce taxable estate
- Income tax deduction in year of transfer

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