

Updating Charities and Not-For-Profit Organizations on recent legal developments and risk management considerations.

FEBRUARY 2012

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RECENT PUBLICATIONS AND NEWS RELEASES

Charitable Donation Tax “Scheme” Class Action is Certified by Court

Karen J. Cooper.

On January 18, 2012, the Ontario Superior Court granted certification in a class action concerning a charitable donation tax scheme in *Cannon v. Funds for Canada Foundation*, 2012 ONSC 399 (CanLII). The case is a cautionary tale for donors that are contemplating participating in tax donation arrangements that seem “too good to be true.” As demonstrated in this case, participation in tax shelter arrangements can lead to the disallowance of a tax deduction or credit, the reassessment of tax returns by Canada Revenue Agency (“CRA”), as well as the accumulation of significant interest for unpaid taxes.

To summarize this complex tax scheme, a donor’s original donation of \$2,500 was purportedly increased to \$7,500 through the exchange of sub-trust units between the various trusts involved, therefore making the original donation seem larger than it actually was. However, the charities had entered into an agreement that required them to return 99% of the donations to the promoters in order to use a software program. The representative plaintiff, presumably like the other plaintiffs, had his deductions for his charitable gifts disallowed by CRA. According to CRA, his donations were not gifts because they were made in the expectation of a material advantage (e.g. a charitable donation receipt greater than the value of his donation) and as such, no donative intent existed.

The class action was certified pursuant to the *Class Proceedings Act, 1992*, based on several common issues, including: breach of contract (between the donors and the promoter); rescission; negligence (including separate allegations against the promoter’s lawyers and directors); conspiracy (to cause harm against the donors); fraud, fraudulent misrepresentation; unjust enrichment; and *Consumer Protection Act, 2002* (“CPA”) claims (e.g. the Canada Gift Program is a consumer transaction governed by the CPA). Given the numerous common issues that arise out of this tax scheme, it will be important to see how those issues are adjudicated.

Update on SCOF Study on Tax Incentives for Charitable Donations

Terrance S. Carter.

As last reported in our January 2012 *Charity Law Update*, the Standing Committee on Finance (“SCOF”) has been holding hearings (also known as the “Braid Hearings”) on the issue of tax incentives for charitable donations. The hearings began on January 31, 2012 with officials from Statistics Canada,

CRA, and the Department of Finance presenting as witnesses. The second hearing was held February 2, 2012, with academics from various universities in Ontario and one from British Columbia. SCOF heard directly from representatives from the charitable sector, including Canadian Association of Gift Planners, Canadian Land Trust Alliance, Imagine Canada, United Way of Burlington and Greater Hamilton and the United Way of Canada at the third hearing on February 7, 2012. On February 9, 2012, SCOF heard from a number of professionals in the sector, as well as Canadian Taxpayers Federation, Scotiabank and TD Bank Financial Group. The last SCOF meeting that was held was on February 14, 2012, with witnesses from Big Brothers Big Sisters of Canada, Canadian Council of Christian Charities, Cardus, Community Foundations of Canada, David Suzuki Foundation, and Evangelical Fellowship of Canada.

While only five of the 12 meetings have taken place so far, the study has been put on hold in order to address three other bills referred to SCOF. The Clerk of the Finance Committee has commented that an estimated date for return to this study is not available at this time.

Given the current challenging economic climate in Canada, it is unclear what results will come from SCOF's study of tax incentives for charitable donations. However, the hearings will be an important opportunity to educate SCOF on the charitable sector's collective contributions, as well as the impact of current and proposed tax measures to encourage charitable giving. Since these tax incentives will be geared toward encouraging Canadians to make or increase their charitable donations, there is much anticipation to learn what SCOF's findings will be when they report to the House of Commons after completion of their study.

Freedom of Religion and Parental Rights

Jennifer M. Leddy in *Church Law Bulletin* No. 40, February 28, 2012.

On February 17, 2012, the Supreme Court of Canada released its judgment refusing the application of Catholic parents in Quebec to have their children in a public school exempted from taking the Ethics and Religious Culture course (the "ERC") mandated by the Quebec Government for elementary and secondary students in the Province. While the parents were able to establish, from a subjective perspective, that their Catholic faith required them to educate their children in their faith, they were unable to establish, from an objective perspective, that the ERC actually interfered with that practice.

This *Church Law Bulletin* reviews this important SCC decision.

Read More:

[PDF] <http://www.carters.ca/pub/bulletin/church/2012/chchlb40.pdf>

[WEB] <http://www.carters.ca/pub/bulletin/church/2012/chchlb40.htm>

CRA News

Karen J. Cooper.

Charities Information Webinars

CRA has completed its 2011 Charities Information Webinars. The topics that were presented in 2011 were “Gifting to Other Organizations”, “T3010-1: Line by Line Review”, “Non-compliance Issues and How to Avoid them”, “Political Activities” and “Activities outside Canada”. Recordings or transcripts of most of these webinars, as well as webinars from previous years, can be viewed at <http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/wbnrs/wbcsts-eng.html>.

Registration for the 2012 Charities Information Webinars is now open. The topics that will be presented in March 2012 are “Completing the Registered Charity Information Return (T3010-1)”, “Orientation for New Board Members” and “Updated Fundraising Policy”. More information on the upcoming webinars is available at <http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/wbnrs/rgstrtn-eng.html>.

CRA Revokes Charitable Registration of Escarpment Biosphere Foundation Inc.

Effective February 11, 2012, CRA revoked the charitable registration of Escarpment Biosphere Foundation Inc., a Toronto area charity. As a result of its audit, CRA concluded that the organization received cash and pharmaceuticals with a purported value of over \$407 million as a result of its participation in the Canadian Humanitarian Trust tax shelter gifting arrangement. CRA determined that the organization failed to verify the value of the assets received and to maintain direction and control over the distribution of the assets. CRA further determined that, in exchange for a fee of approximately \$1 million, the organization lent legitimacy to the tax shelter gifting arrangement by representing that it had received and distributed the assets in its own charitable programs. As such, CRA concluded that the organization failed to operate exclusively for charitable purposes by acting as a conduit for the tax shelter gifting arrangement and redistributing 99% of the cash received to other parties in the tax shelter. CRA’s News Release on this matter is available at <http://www.cra-arc.gc.ca/nwsrm/rlss/2012/m02/nr120210-eng.html>.

Charities Connection #11

In late January, CRA released an issue of its electronic publication, *Charities Connection*, which is available at <http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/nwsltr/cnnctn/cnnctn11-eng.html?rss>. This Special Edition issue provides information on changes resulting from the 2011 federal Budget,

including changes relating to qualified donees and registered Canadian amateur athletic associations (RCAAA). CRA indicates that more information will be provided in future issues of *Charities Connection* relating to other Budget measures, including information on safeguarding charitable assets through good governance, recovering tax assistance for returned gifts and granting of options to qualified donees.

Forms and Publications

CRA recently added the following forms to its website:

- RC4420 Information on CRA - Service Complaints, available at: <http://www.cra-arc.gc.ca/E/pub/xi/rc4420/>
- T1189 Application to Register a Canadian Amateur Athletic Association Under the Income Tax Act, available at <http://www.cra-arc.gc.ca/E/pbg/tf/t1189/>

Members of Non-Share Capital Corporations are Shareholders for Income Tax Purposes

Theresa L.M. Man.

CRA recently expressed its views in response to a question whether members of provincial societies or non-share capital corporations are “shareholders” for the purpose of subsection 15(1) of the *Income Tax Act* (document #2011-0415831E5). Subsection 15(1) provides that where a benefit is conferred on a shareholder, this amount is to be included in computing the shareholder’s income for the year. CRA was of the view that because subsection 248(1) of the *Income Tax Act* defines “shareholder” to include a “member or other person entitled to receive payment of a dividend”, members of non-share capital corporations are considered to be shareholders for the purpose of subsection 15(1). In this scenario, the fact that the corporation in question is prohibited from declaring a dividend to the members and therefore the members are not “entitled” to receive a dividend is not relevant. This interpretation applies to corporations under Part II of the *Canada Corporations Act*, corporations incorporated or continued under the *Canada Not-for-Profit Corporations Act*; and corporations under provincial Societies Act or equivalent provincial legislation.

Digging For Dirt: Handling Requests For Information

Presented by Terrance S. Carter at the 2012 OBA Institute - Board Issues under the New *Not-For-Profit Corporations Act* (Canada and Ontario) in Toronto, Ontario, on February 10, 2012.

In the Internet era where information is readily available at our fingertips, the reality of garnering information about not-for-profit (“NFP”) corporations is that access to corporate records is subject to a

considerable array of rules and requirements. NFP legislation, like its for-profit counterparts, sets out significant recordkeeping obligations for corporations, as well as establishes prescribed rights to examine corporate records to certain persons with status, such as the directors and members of the corporation.

The purpose of this paper is to provide an overview concerning what information is available and to whom under the *Canada Not-for-Profit Corporations Act* (“CNCA”) and the *Ontario Not-for-Profit Corporations Act, 2010* (“ONCA”), collectively referred to as “NFP Legislation”. In order to deal with requests for such information, though, it is first necessary to know what records an NFP corporation must keep. In this regard, the new NFP Legislation has been modelled on reformed for-profit corporate statutes that were developed during the 1970s and 1980s. Accordingly, the provisions of, and the case law associated with, the *Canada Business Corporations Act* (“CBCA”) and *Ontario Business Corporations Act* (“OBCA”) is referenced where relevant in order to provide some context concerning how the new NFP Legislation may be applied and how the courts may interpret their provisions.

This paper will also compare the ONCA and CNCA to their respective predecessors, being the *Ontario Corporations Act* (“OCA”), and *Canada Corporations Act* (“CCA”), in order to highlight changes in recordkeeping requirements.

Read More:

[PDF] <http://www.carters.ca/pub/article/charity/2012/tsc0210.pdf>

“Intrusion Upon Seclusion” New Tort From Ontario Court of Appeal

Barry W. Kwasniewski in *Charity Law Bulletin* No. 277, February 27, 2012.

For over a century, courts in Ontario and other common law jurisdictions have grappled with the issue of whether individuals should have the legal right to sue for monetary damages for breaches of privacy. This debate has finally been determined in the recently released Ontario Court of Appeal decision in *Jones v Tsige*. This newly recognized cause of action, which the court has identified as an action for “intrusion upon seclusion”, is an important development in the privacy law of Ontario. For charities and not-for-profits, this case illustrates that care must be taken in matters involving the privacy of individuals who have any dealings with the organization. This *Charity Law Bulletin* reviews and comments upon this important judicial development.

Read More:

[PDF] <http://www.carters.ca/pub/bulletin/charity/2012/chylb277.pdf>

[WEB] <http://www.carters.ca/pub/bulletin/charity/2012/chylb277.htm>

Obligations of Registered Charities and Canadian Amateur Athletic Associations in Québec

Ryan M. Prendergast.

On February 8, 2012, the online information centre for Revenu Québec released a Tax News update for charities and registered Canadian amateur athletic associations (RCAAAAs) in Québec. In order to maintain charitable registration and tax exemptions in Québec, registered charities and RCAAAs must file an information return with Revenu Québec within six months of the end of each taxation year. Charities must file form TP-985.22-V, Information Return for Registered Charities and Other Donees, available at http://www.revenuquebec.ca/en/sepf/formulaires/tp/tp-985_22.aspx and RCAAAs must file form TP-1086.R.19-V, Information Return – Registered Québec and Canadian Amateur Athletic Associations, available at http://www.revenuquebec.ca/en/sepf/formulaires/tp/tp-1086_r_19.aspx.

Further, charities that supply taxable property or services are required to register for the GST and QST, and must collect and remit the taxes to Revenu Québec, unless they have small-supplier status. As a rule, registered charities must use the simplified method for calculating their net tax remittance. Charities may be entitled to a 50% rebate of the GST and QST paid on their own purchases of property and services for which they cannot claim input tax credits or input tax refunds. More information for Québec charities relating to the QST and GST/HST is available at <http://www.revenuquebec.ca/en/sepf/publications/in/in-228.aspx>.

United States Partner Vetting System

Nancy E. Claridge.

On January 18, 2012, the U.S. State Department posted a new Federal Register Notice in relation to the controversial joint program with the U.S. Agency for International Development (“USAID”) referred to as the Partner Vetting System (“PVS”). The purpose of the PVS is to vet “key employees” of entities applying for USAID or State Department contracts or grants, to ensure that USAID and State Department funds do not inadvertently benefit terrorists or their supporters. Under the proposed PVS pilot program, the U.S. government will collect personal information and vet this information against public and U.S. government databases, including secret national security databases. The pilot program will be conducted in Kenya, Guatemala, Lebanon, Philippines and Ukraine. Nonprofits in the U.S. have argued that the PVS is fundamentally flawed, suggesting:

- there is no evidence that USAID or State Department funds have been diverted to terrorist organizations through NGOs. USAID already requires a clause to be inserted in every grant agreement concerning a prohibition on transactions with terrorist organizations;

- the PVS detracts from the perception of neutrality that is often necessary for nonprofits to operate and puts many aid workers at risk of danger;
- many issues, procedures and definitions of the PVS program have yet to be determined, and the procedures that have been developed thus far are vague;
- there are serious due process concerns, as the vetting lists are error-filled and unreliable and the appeal procedures do not give applicants a meaningful opportunity to know or respond to the “derogatory information” that led to denial of their grant application;
- the charitable/NGO sector has already pooled its expertise on numerous occasions to develop standards and programs to protect the integrity of their operations. The effective strategy of on the ground relationship building is ignored in the PVS; and
- there was insufficient public input prior to the PVS rule, as it was made effective on the same day that the public comment period was originally announced.

Although there is a common goal between government and the charitable sector to incorporate effective due diligence procedures to make sure charitable assets are used exclusively for charitable purposes and not diverted to terrorist or other illegal use, the PVS has been introduced without the effective collaboration that is necessary to make the due diligence work. Charities seeking out USAID or State Department contracts or grants will need to be aware of these requirements and the implications the PVS will have on the organization and its key employees.

Deceased Taxpayer's Charitable Gifts

Jacqueline M. Demczur.

CRA recently expressed its views on whether a deceased will qualify for a charitable donation credit where the deceased's will provides for a spousal trust with a donation to be made to charity upon the death of the spouse (document # 2011-0428021E5). CRA was of the view that where the terms of a will evidence an intention to create a spousal trust, with a specific amount or assets remaining to be distributed to a registered charity upon the spouse's death, the tax consequences of the charitable gift will depend upon whether the charity is receiving, upon the death of the individual, an equitable interest in the spousal trust that would reasonably be regarded as a gift by the individual's will. If the charity is receiving an equitable interest upon the death of the individual, the deceased would be entitled to claim a donation tax credit under subsection 118.1(5) of the *Income Tax Act*. However, if the charity is not

receiving an equitable interest but a donation is made upon the spouse's death, then a donation credit can be claimed by the spousal trust under subsection 118.1(3) of the *Income Tax Act*.

Where the will directs the trustee to make a donation to the charity of a specific property, a specified amount or a specific percentage of the residue, and it is clear that the trustee is required to make the gift, the gift would likely be considered a gift by the individual's will of an equitable interest in the spousal trust. Where the trustee has some degree of discretion with respect to the gift, it will be a question of fact whether any distribution of property to the charity from the trust is a gift made by the individual's will. Where the decision is clearly left to the trustees as to whether a gift to a registered charity will be made, and it is clear that the gift was completed after the death of the spouse, it has been CRA's practice to allow a charitable gift to be claimed by the trust. However, where unrestricted powers of encroachment upon the spousal trust exist, CRA may accept that a gift has been made by the will under 118.1(5) provided that the spouse irrevocably disclaims their interest in the capital/specific property and the trustees undertake not to exercise their authority to make capital/specific property of the trust available for the spouse.

Issues Involving Youths in Philanthropy

Ryan M. Prendergast.

Young people are becoming increasingly involved in volunteer service activities. According to the 2007 Statistics Canada Survey of Giving, Volunteering and Participating, while the top 25% of donors of money tend to be older, young Canadians had the highest rate of volunteering. Young Canadians aged 15 to 24 were more likely to volunteer (58% volunteered) than Canadians in any other age group.

With this trend, there are also more youth on the boards of charities and not-for-profit ("NFP") organizations. While a youth board member may bring a fresh perspective to the organization, such as providing a voice on behalf of the population that is being served by the organization, having a youth board member can also create risks and raise legal uncertainties.

For youth over the age of 18, every opportunity is available for them to participate, including the positions of director and officer, as well as being corporate members. However, since both the new NFP legislation (CNCA and ONCA) require a director to be at least 18 years of age, youth under the age of 18 cannot be a director. Under the CNCA, however, the only restriction on the appointment of an officer is that such person must be "of full capacity", which is not defined in the Act. The ONCA does not have any equivalent restrictions on the appointment of officers. Therefore, if appointed as such, it would appear that a minor could in theory be appointed as an officer, provided that the youth was not a

director. However, it would obviously be unwise for a youth under age 18 to be an officer since there is a fiduciary obligation that could not properly be fulfilled where an officer was a minor. Also, if membership for youth under age 18 involves matters of discipline, caution should be exercised, since the ability to discipline a minor is fraught with numerous legal concerns that would have to be carefully addressed.

While it is encouraging to have youth involvement in philanthropic activities, it is important to know the liabilities when it involves youth under the age of 18. Alternatives for an organization seeking the value or benefits of youth leaders under the age of 18 could involve creating a youth advisory board, having the youth attend and participate in board meetings as guests, or have the youth join a committee or existing advisory board. These alternatives may strike the right balance between youth involvement for those under the age of 18 and avoidance of the legal risks involved in having a youth board member or officer.

Update on Bill C-11, the *Copyright Modernization Act*

Colin J. Thurston.

In October 2011, Carters reported in a *Charity Law Update* that Bill C-11, *An Act to amend the Copyright Act (Copyright Modernization Act)*, had been introduced in the House of Commons and received First Reading on September 29, 2011. This month, on February 13, 2012, the Bill received Second Reading and was referred to Committee.

The bill is identical to the former Bill C-32, which had been the subject of several legislative committee meetings but died when the federal election was called in the spring of 2011. The Bill would add several new rights and exceptions to the *Copyright Act*, including:

- Updating rights and protections of copyright owners to better address the challenges and opportunities of the Internet, so as to be in line with international standards;
- Permitting businesses, educators and libraries to make greater use of copyright material in digital form; and
- Allowing educators and students to make greater use of copyright material.

Proposed amendments to the fair dealing provisions of the *Copyright Act* will be of particular interest to charities and not-for-profits that offer educational services, as the amendments would allow organizations to make certain uses of copyrighted works for educational purposes without infringing copyright. On the other hand, opponents of the bill have voiced concerns over the proposed “digital lock” provisions, which some critics suggest are too heavily in favour of copyright owners and would restrict the rights of users.

It is anticipated that Bill C-11 will move swiftly through Committee hearings. The first Committee meeting was held on February 14, 2012, during which a schedule was adopted that would aim to conclude the Committee's clause-by-clause review of the bill by the end of March. The Committee would then report the bill back to the House of Commons "at the earliest opportunity."

HLF Decision: Terrorist Financing Victory or Troubling Precedent for Charities?

Nancy E. Claridge and Terrance S. Carter in *Anti-terrorism & Charity Law Alert* No. 28, February 28, 2012.

The U.S. Court of Appeals for the Fifth Circuit recently issued its long-awaited decision in the Holy Land Foundation for Relief and Development ("HLF") appeal of the 2008 conviction of the organization and its principals in relation to charges of providing material aid and support to a terrorist organization (Hamas) and related charges. The convicted principals of HLF were sentenced to prison terms of between 15 and 65 years, and the organization, which was not represented at trial, had its frozen assets forfeited and was subject to a monetary judgement in the amount of \$12.4 million. The December 2011 Court of Appeal decision upheld the jury verdict. This *Anti-terrorism & Charity Law Alert* summarizes the HLF appeal and the disconcerting public policy issues that could arise in relying on the HLF decision for the purposes of demonstrating a Canadian charity's non-compliance with anti-terrorism policies in Canada.

Read More:

[PDF] <http://www.carters.ca/pub/alert/ATCLA/ATCLA28.pdf>

Ottawa Region Charity & Not-for-Profit Law Seminar Materials Now Available

The Ottawa Region *Charity & Not-for-Profit Law* Seminar, hosted by Carters Professional Corporation in Nepean, Ontario, on February 2, 2012, was attended by more than 300 leaders from the sector, including directors of charities, government officials, accountants and lawyers. Designed to provide practical information to assist charities and not-for-profits in understanding and complying with recent developments in the law, the related *Church & Charity Law* seminar has been held annually in Toronto since 1994, with an Ottawa seminar first added in 2008. All handouts and presentation materials are now available at the links below in the order as presented, with the web links being Power Point slide shows.

Seminar and Speaker Details and Acknowledgements

[PDF] <http://www.carters.ca/pub/seminar/chrchlaw/ott/12/handout.pdf>

Essential Update for Charities and NPOs

Terrance S. Carter, Carters Professional Corporation, Orangeville

[WEB] <http://www.carters.ca/pub/seminar/charity/2012/tsc0202a.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/tsc0202a.pdf>

Maintaining NPO Status

Karen J. Cooper, Carters Professional Corporation, Ottawa

[WEB] <http://www.carters.ca/pub/seminar/charity/2012/kjc0202a.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/kjc0202a.pdf>

Workplace Harassment: What Employers Need to Know

Barry Kwasniewski, Carters Professional Corporation, Ottawa

[WEB] <http://www.carters.ca/pub/seminar/charity/2012/bwk0202.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/bwk0202.pdf>

Director and Officer Liability Issues for Charities and Not-for-Profits

Ryan M. Prendergast, Carters Professional Corporation, Orangeville

[WEB] <http://www.carters.ca/pub/seminar/charity/2012/rmp0202.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/rmp0202.pdf>

Overview of Continuing Under the CNCA and ONCA

Jane Burke-Robertson and Jennifer M. Leddy, Carters Professional Corporation, Ottawa

[WEB] <http://www.carters.ca/pub/seminar/charity/2012/jbrjml0202.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/jbrjml0202.pdf>

Staying Out of the Headlines: Child Protection Policies Revisited

Mervyn F. White, Carters Professional Corporation, Orangeville

[WEB] <http://www.carters.ca/pub/seminar/charity/2012/mfw0202.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/mfw0202.pdf>

“Ineligible Individuals” and Other Issues from the 2011 Budget

Karen J. Cooper, Carters Professional Corporation, Ottawa

[WEB] <http://www.carters.ca/pub/seminar/charity/2012/kjc0202b.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/kjc0202b.pdf>

Foreign Activities: How to Avoid Problems

Jennifer M. Leddy, Carters Professional Corporation, Ottawa

[WEB] <http://www.carters.ca/pub/seminar/charity/2012/jml0202.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/jml0202.pdf>

Complying with CRA’s New Fundraising Guidance (Revised 2012)

Terrance S. Carter, Carters Professional Corporation, Orangeville

[WEB] <http://www.carters.ca/pub/seminar/charity/2012/tsc0202.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/tsc0202.pdf>

Keeping on the Right Side of CRA

Cathy Hawara, Director General, Charities Directorate, Canada Revenue Agency

[WEB] <http://www.carters.ca/pub/seminar/charity/2012/ch0202.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/ch0202.pdf>

IN THE PRESS

Proposed PIPEDA amendments require charities' attention by Colin J. Thurston.

Canadian Fundraising & Philanthropy, Vol. 22, No. 2, January 31, 2012.

Hilborn eNews, February 2, 2012.

[Link] <http://www.charityinfo.ca/articles/Proposed-PIPEDA-amendments-require-charities-attention>

RECENT EVENTS AND PRESENTATIONS

The Ottawa Region Charity & Not-for-Profit Law™ Seminar was held at Arlington Woods Free Methodist Church in Nepean, Ontario, on Thursday, February 2, 2012.

Materials are now available at <http://www.carters.ca/pub/seminar/chrchlaw/ott/index.htm>.

CLTA Presentation to Standing Committee on Finance

On Tuesday, February 7, 2012, Karen Cooper made a presentation to the Standing Committee on Finance regarding Tax Incentives for Charitable Donations in her capacity as a Director of the Canadian Land Trust Alliance ("CLTA") on Parliament Hill. The transcript of this presentation is available at <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5366607&Language=E&Mode=1&Parl=41&Ses=1#Int-6527006>.

Charity and Not-For-Profit - Board Issues Under the New Not-For-Profit Corporations Acts: Potential Problems and Practical Solutions a program of the Ontario Bar Association 2012 Institute held in Toronto, Ontario, on February 10, 2012, included a presentation by Terrance S. Carter on "Digging for Dirt: Handling Requests for Information."

[Web] <http://www.carters.ca/pub/seminar/charity/2012/tsc0210.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/tsc0210.pdf>

[Paper] <http://www.carters.ca/pub/article/charity/2012/tsc0210.pdf>

Ottawa Chamber of Voluntary Organizations (CVO) hosted a workshop by Karen J. Cooper entitled "How Will Changes to the *Canada Not-for-Profit Corporations Act* Affect Your Organization?" in Ottawa on February 14, 2012.

[Web] <http://www.carters.ca/pub/seminar/charity/2012/kjc0214.htm>

[PDF] <http://www.carters.ca/pub/seminar/charity/2012/kjc0214.pdf>

Imagine Canada's Charity Tax Tools Webinar on February 14, 2012, presented by Terrance S. Carter was entitled "The New CRA Fundraising Guidance - What Practitioners and Boards need to Know."

Materials available at <http://charitytax.imaginecanada.ca/demand-webinars>.

Christian Legal Fellowship (CLF) 2012 National Christian Law Student Conference hosted at Osgoode Hall Law School in Toronto, Ontario, February 24-26, 2012, included a presentation by Terrance S. Carter entitled "Personal Reflection on Integration of Faith and Practice."

UPCOMING EVENTS AND PRESENTATIONS

Insight 10th Annual Business Law and Practice Conference being held in Toronto, Ontario, will include a presentation by Terrance S. Carter entitled “Getting Ready for the New *Ontario Not-for-Profit Corporations Act* (ONCA)” on February 29, 2012.

Details available at http://www.insightinfo.com/index.php/ci_id/53109/la_id/1.htm.

Emerging Issues in Directors’ and Officers’ Liability 2012, a continuing professional development program being hosted by the Law Society of Upper Canada in Toronto, Ontario, on March 1, 2012, will include a presentation by Terrance S. Carter entitled “Directors’ and Officers’ Duties and Liabilities under the CNCA and ONCA.”

Details available at <http://ecom.lsuc.on.ca/cpd/product.jsp?id=CLE12-0030101>.

Ontario - New York Legal Summit will include a panel presentation by Terrance S. Carter in Buffalo, New York on March 29, 2012, on “Charities Law: The Tricky Legal Environment of Crossing Borders.”

Details available at http://www.cba.org/pd/details_en.aspx?id=ON_12NEW0328C

CAGP-ACPD 2012 Annual National Conference being held in Victoria, B.C. will include the following presentations on April 19, 2012:

“Essential Charity Law Update” by Terrance S. Carter; and

“Donor Rights & Remedies” by Theresa L.M. Man.

Details available at <http://www.cagp-acpd.org/en/education/2012conf.aspx>.

The 2012 National Charity Law Symposium a joint program of the Canadian Bar Association's and the Ontario Bar Association's Charity and Not-For-Profit Law Sections being held in Toronto, Ontario, on May 4, 2012, will bring together leading experts from across Canada to speak about the latest developments in this rapidly changing area. Terrance S. Carter is co-chair of the symposium, and Karen J. Cooper will be presenting “New Eligibility Requirements for Directors, Officers and Staff of Registered Charities.”

Details available at http://www.cba.org/pd/details_en.aspx?id=NA_CHAR12.

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Nancy E. Claridge – Called to the Ontario Bar in 2006, Ms. Claridge is a partner with Carters practicing in the areas of charity, anti-terrorism, real estate, corporate and commercial law, and wills and estates, in addition to being the firm's research lawyer and assistant editor of *Charity Law Update*. After obtaining a Masters degree, she spent several years developing legal databases for LexisNexis Canada, before attending Osgoode Hall Law School where she was a Senior Editor of the *Osgoode Hall Law Journal*, Editor-in-Chief of the *Obiter Dicta* newspaper, and was awarded the Dean's Gold Key Award and Student Honour Award.



Karen J. Cooper – A partner with the firm, Ms. Cooper is recognized as a leading expert by *Lexpert* and *Best Lawyers* practicing charity and not-for-profit law with an emphasis on tax issues at Carters' Ottawa office, having formerly been a Senior Rulings Officer with the Income Tax Rulings Directorate of Canada Revenue Agency, as well as former counsel for the Department of Justice in tax litigation. Ms. Cooper also has considerable teaching experience, including as part-time professor at the University of Ottawa, Faculty of Common Law, and is a contributing author to *The Management of Charitable and Not-for-Profit Organizations in Canada* (LexisNexis Butterworths).



Jacqueline M. Demczur – A partner with the firm, Ms. Demczur has been recognized as a leading expert in charity and not-for-profit law by *Lexpert*. Her practice includes incorporation, corporate restructuring, and legal risk management reviews, as well as wills, estate planning and estate administration. She is a contributing author to Industry Canada's *Primer for Directors of Not-For-Profit Corporations*, and has written numerous articles on charity and not-for-profit issues for the *Lawyers Weekly*, *The Philanthropist* and *Charity Law Bulletin*, among others. Ms. Demczur is also a regular speaker at the annual *Church & Charity Law™* Seminar.



Christine Kellowan – Christine graduated from Osgoode Hall Law School with a Juris Doctor. Prior to attending law school, Christine graduated from York University's Faculty of Arts with a B.A. (Hons.) in Political Science, *summa cum laude*. While in law school, Christine was a Senior Contributing Editor for *The Court* and a volunteer with Pro Bono Students Canada. Before articling with Carters, Christine gained legal experience working in the Compliance Division at the Ontario's Independent System Operator of the electricity market. She also interned at a Toronto law firm and the National Legal Institute in Mongolia.



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Theresa L.M. Man – A partner with Carters, Ms. Man practices charity and not-for-profit law and is recognized as a leading expert by Lexpert and Best Lawyers. She is an Executive Member of both the Charity and Not-for-Profit Sections of the Ontario Bar Association (OBA) and the Canadian Bar Association (CBA). In addition to being a frequent speaker at the annual *Church & Charity Law™* Seminar, seminars hosted by the CBA and the OBA, Ms. Man has also written articles for numerous publications, including *The Lawyers Weekly*, *The Philanthropist*, *Planned Giving Pulse*, *International Journal of Civil Society Law*, *The Bottom Line*, *Canadian Fundraiser*, and *Charity Law Bulletin*.



Ryan Prendergast – Ryan was called to the Ontario Bar in 2010 and joined Carters to practice in the areas of charity and not-for-profit law, corporate and commercial law, and human rights law. A graduate of the University of Ottawa, Faculty of Law, Ryan was a student caseworker for the Criminal Division at the University of Ottawa Community Legal Aid Clinic, completed a research project for Ecology Ottawa on municipal by-laws, and worked for the Crown Attorney's Office in Toronto as a summer student. During his articles, Ryan acquired experience in charity and not-for-profit law, and contributed to several *Charity Law Bulletins* and other publications.



Michelle Thériault – A graduate of the University of Ottawa, Faculty of Law, 2011, Michelle has an Honours Bachelor of Social Sciences degree in Criminology (*summa cum laude*) from the University of Ottawa, and worked in the charitable sector as a social worker from 2002 to 2008. During law school, Michelle was a caseworker in Community Legal Education, a division leader in Criminal Law at the Legal Aid Clinic, a Research Assistant, and she co-established and sat on the Steering Committee of the University of Ottawa branch of the Law Union, a group for students interested in social justice. Currently, Michelle is on the Board of Directors for the John Howard Society of Ontario.



Colin Thurston – Colin was called to the Ontario Bar in 2011 and joined Carters to practice in the area of intellectual property. A graduate of Queen's University, Faculty of Law, Colin volunteered at the Queen's Legal Aid clinic throughout his three years at Queen's and his responsibilities grew from hands-on legal research, writing, and litigation, to supervision and training of his fellow law students, to input on clinic operations from a policy level. Colin has gained litigation experience before numerous courts and tribunals and received numerous awards recognizing his work, including the Sabbath Prize in Wills and Estate Planning from Queen's University, Faculty of Law.



Kristen D. van Arnhem – Kristen graduated from the University of Ottawa, Faculty of Law, in 2011 on the Dean's List of Honour for ranking in the top ten percent of her class. Prior to attending law school, Kristen graduated with Distinction from the University of Guelph with an Honours Bachelor of Arts in Sociology. She has participated in two international law school exchanges in Australia and Puerto Rico. Before articling with Carters, Kristen gained legal experience as a summer student working for a family law firm in Guelph. Kristen has volunteered with Ottawa's Supervised Access Program, Legal Aid Clinic in Ottawa, and was a note taker for students with disabilities.



Mervyn F. White – A partner with Carters, Mr. White acts as litigation counsel to individuals, as well as to churches, charities, not-for-profit organizations, businesses and corporations, in areas of the law including charity and not-for-profit law, human rights complaints, and risk management assessments relating to insurance law and human rights. Mr. White is a contributing author to *The Lawyers Weekly*, *Charity Law Bulletin* and *Church Law Bulletin*, and a speaker for organizations such as Canadian Fundraiser, the Association of Fundraising Professionals, and the Christian Legal Intervention Academy.

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