

FARM MANAGEMENT

SELLING YOUR CONSERVATION EASEMENT

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If you are contemplating selling your conservation easement, you have many complex decisions and issues to face. It may even be more challenging than planning your estate. Remember, the decisions you make will greatly influence your heirs for generations to come.

You must consider the impact of your decision on the future feasibility of farming, the supply of interested heirs to continue farming, the real estate tax, the federal and state inheritance and income tax, the lowered fair market value of your farm. Also, there are your county's rating system and the timing of your decision to consider.

Making an informed final decision won't be easy, but your heirs will hopefully thank you for generations.

ABLE TO BE FARMED ?

The first consideration is the future feasibility of farming at your location. Some factors to think about will be traffic congestion, availability of farm support services, (supplies, repairs, feed, etc.), local zoning and manure ordinances, water quality and availability, and finally, direct marketing opportunities of your farm products.

Will you have done your heirs any favors if they can't get adequate and timely farm services, are always fighting with their neighbors about the farm odors, and/or can't get to the fields because the traffic makes it too dangerous?

HEIRS?

If there is a question whether you have heirs that desire to farm, it may also be questionable whether you want to restrict your farm land to farm uses only. Some of your children may want the farm sold for the top dollar and feel that the farm is their big inheritance.

If you do have heirs who desire to farm, the conservation easement cash payment may make estate planning easier by having the cash to compensate those non-farm children. It will also make it easier for the future farmer to purchase the farm by lowering its fair market value. With the cash you may even be able to gift a portion of the fair market value to your child, to further facilitate the heir purchasing the farm.

REAL ESTATE TAXES

Presently it is uncertain how your real estate taxes and the assessed value of your property

will be affected by the conservation easement.

The new assessment should be based solely on agricultural value, but this is presently untested in the Pennsylvania court system. If it has been a long time since your farm has been assessed it is conceivable that your assessed value will rise after the conservation easement is sold. Your total real estate taxes will still rise even if your assessment stays the same, when and if, your local millage rates increase.

Before making a final decision to sell your conservation easement try to get some ruling from your county tax assessment office as to how your assessment will be affected by selling your conservation easement.

INHERITANCE AND INCOME TAXES

Selling your conservation easement and then gifting cash or other assets out of your estate may be an excellent tool in lowering your probable inheritance tax liability.

Don't forget though, as long as the cash or other assets you bought stay in your control you won't have substantially lowered the value of your estate, however the real estate value of your estate will be lowered because the farm real estate will now be valued at farm use value instead of fair market value in calculating the total value of your taxable estate.

Don't forget, the profit you realize from the conservation easement is taxable income for federal and state income tax purposes. Make sure, after paying off your lending institution and your income taxes, that you have enough left to fulfill your wishes.

You may want to purchase the neighboring farm, make major

building improvements and/or additions to the farm, or gift funds to your heirs among other desires. You may want to consider donating a portion of your easement sale to lower your tax liability and allow the county and/or state to purchase more easements.

Be sure to spend time with your accountant and calculate your income tax liability before you sign on the dotted line, especially if you gift a portion of the easement.

LOWERED FAIR MARKET VALUE

The conservation easement will greatly reduce your fair market value when the farm is transferred to the next owner. The fourteen farms in Lancaster County sold with conservation easements in place over the past 4 1/2 years sold for an average of \$3,116 an acre, or about \$1000 less than the 1988 Lancaster County average. This lowered value is great if the farm will stay in the family, but greatly reduces the sale price when compared to selling the farm for development.

COUNTY RATING SYSTEM

It would be a good idea to become familiar with the rating system that your county will use to decide which farms' easement to purchase. According to the enabling state legislation each county will have a detailed list of rating factors that will contribute to a final cumulative score, which will be used to rank the farms under consideration of easement purchase.

Location and site factors and agricultural productivity factors are the two classifications of the ranking system. Location and site factors may include: extent of non-

agricultural development in the area, proximity to planned development, proximity to farmland protected by perpetual easements or restrictive covenants, buffering of parks, environmentally sensitive areas, historical structures or districts, soil and water conservation practices, size of the farm parcel, proximity to sewer service, and cost (or percent donation of appraised easement value).

Agricultural productivity factors revolve around the productivity of the soil types on the farm and crops grown on the farm.

TIMING

Even after considering everything else, timing could be your most important factor. If you are aware of your county's rating system you may desire to wait until your score would be the highest and consequently have the best chance of selection.

If the fair market value of your farm has continued to rise recently, you may also want to wait until, in your opinion, the farm would have reached its peak fair market value, and in turn yield you the most money. You may also want to wait to see if any of your children and their spouses desire to farm. You may also want to wait until the conservation easement would best work into your estate plan.

SUMMARIZE

Be sure to thoroughly research all your options before you sell your farm's conservation easement. If possible talk to farmers in other states that have already sold their easements and learn from their experiences. Literally list the pros and cons and consult your family members and make an informed decision that is right for your family and you.

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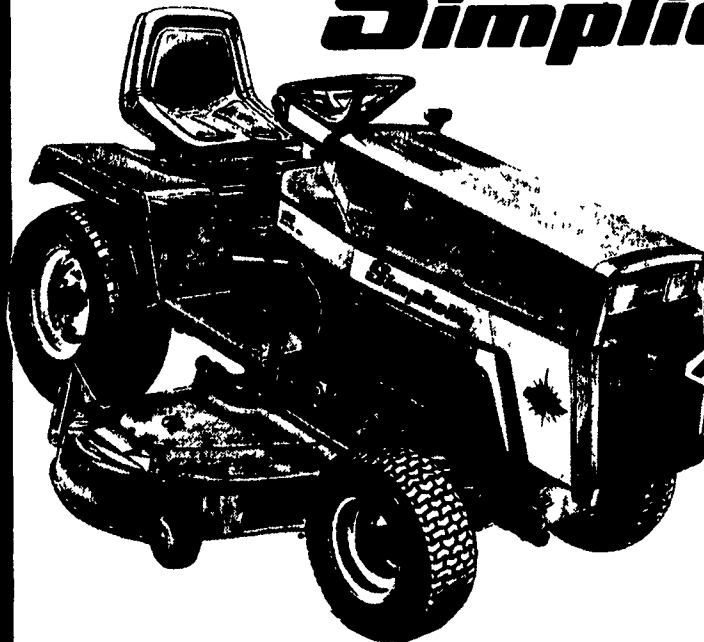
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