

- Farm Transfers - Real World Examples



Using Agricultural Conservation Easements
to Plan for Farm Succession

NW MI Horticultural Research Station
November 2014

Brian Bourdages
Farmland Program Manager
Grand Traverse Regional Land Conservancy



About GTRLC's Farmland Program

What We Do:

- Help local communities administer their farmland preservation programs (Peninsula Township, Acme Township)
- Protect farmland through donated agricultural conservation easements (over 3,500 ac.)
- Own two active farms:

Misty Acres Farm – Part of MSU Grass-fed beef project

Maple Bay Farm – Home to ISLAND's New Farmer Residency Program





Key Considerations Regarding Farmland Transfers

“For the first time in the history of the United States, the family that just wants to leave its land to the children may not be able to do that.”

*Preserving Family Lands – Essential Tax Strategies for
the Landowner*

Steven J. Small, Esq.

1988





Key Considerations Regarding Farmland Transfers

“For the first time in the history of the United States, the family that just wants to leave its land to the children may not be able to do that.”

*Preserving Family Lands – Essential Tax Strategies for
the Landowner*

Steven J. Small, Esq.

1988



Key Considerations Regarding Farmland Transfers

- Land in our region has rapidly escalated in value.
- The “development premium” on land values often make land prices prohibitive for agricultural use.
- Now that the recession is abating, land prices are once again rising in the region.





Scenario #1

The Historic “traditional” Transfer

The Brown Family Farm

- The Browns own a 200-acre fruit farm in Peninsula Township – Grand Traverse County - including 500 feet of shoreline on Lake Michigan. The property includes 3 houses – all are historic farm houses from various previous configurations of the farm.
- The main farm home was the home of Mrs. Brown, the second farm home was used for seasonal housing by the visiting children and their families, and the third as farm tenant housing.
- Mr. Brown died in 1988 and the farm became the property of Mrs. Brown.





Scenario #1 (cont.)

The “traditional” transfer

The Brown Family Farm

- Mrs. Brown died in 1996. Good tax, legal and estate planning is sufficient to prevent an undue estate tax liability for the family. The farm is left to the 3 children in a family partnership structure.
- Proposal A “capping property taxes” has only been in place since 1994. Neither the value of the farm nor inflation has increased tremendously between '94 and '96 – and thereby their change in property taxes is negligible.
- One of the 3 children operates the farm as the headquarters of his fruit operation, the other siblings are business partners and are engaged in their own work and family lives in other parts of the country.



Scenario #2

A Limited Development Option

The Smith Family Farm

- The Smiths own 500 acres of farmland and working forest land in Leelanau County.
- Mrs. Smith dies in 1990, leaving the farm to Mr. Smith. Mr. Smith dies in 2000 - land values have appreciated dramatically since 1990 leaving the two sons with a significant estate tax liability.
- The family elects to sell 80 acres of woods to be used as a housing development to pay the estate tax and restructure debt. While the kids hate to sell the woods that were a part of the original family farm, and because the high quality hardwoods provided good income every 10 to 15 years, this does allow them to continue to farm the property.





Scenario #3

An Agricultural Conservation Easement as a Tool to Protect the Family's Farming Heritage

What Is A Conservation Easement?

- A voluntary permanent restriction against primarily residential development that “runs with the land”.
- It can allow liberally for continued agricultural uses including new ag buildings, roads, fences etc.
- It's flexible and can accommodate for future family needs e.g. a home site for children or a farm operator.



Scenario #3 (cont.)

The Robertson Farm

- Mr. Robertson is 93 years old; his wife passed away several years ago.
- He owns a 200-acre farm in Kankaska County.
- Mr. Robertson's oldest son runs the farm's beef cattle and general agriculture operation.
- The farm contains significant areas of high quality wetlands and upland forest managed for timber harvest.



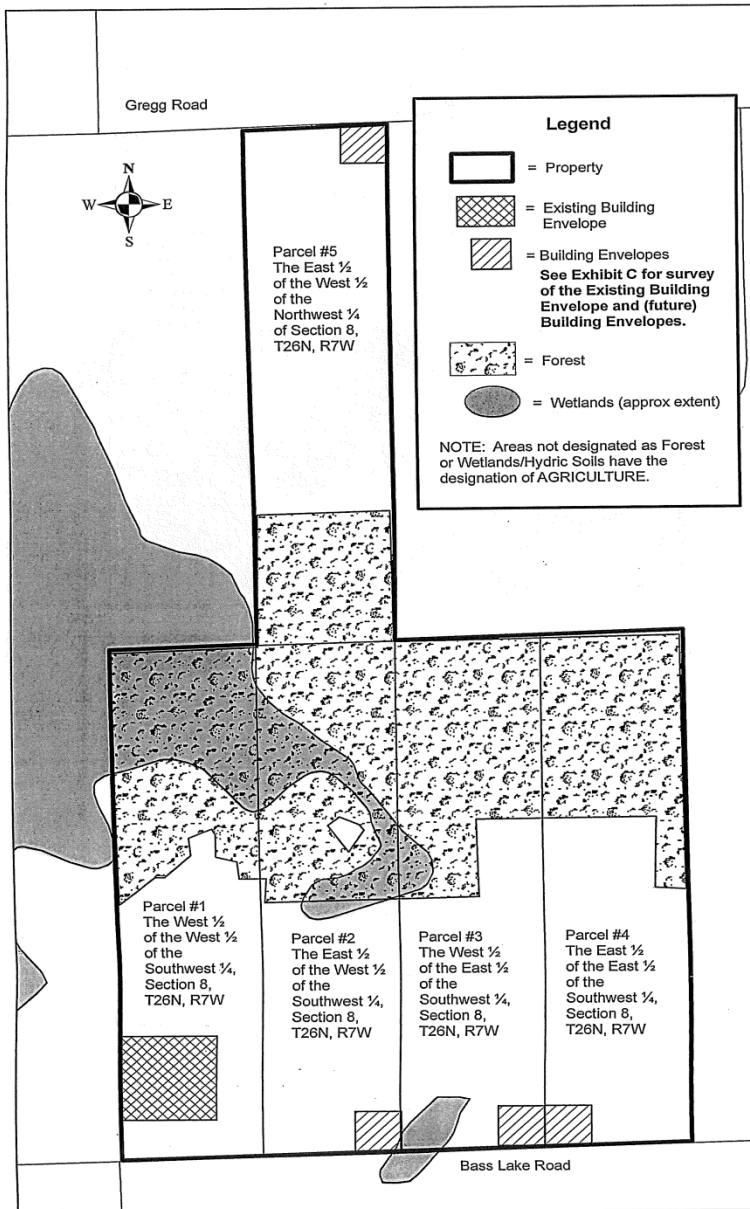
Scenario #3 (cont.)

The Robertson Farm

- Mr. Robertson and family decide to donate an agricultural conservation easement to the Grand Traverse Regional Land Conservancy.
- He wants to retain the legacy of his working lands.
- His children help to develop the terms of the conservation easement.
- The conservation easement allows for continued agricultural uses, retains the right to build 5 additional homes - each on 40 acre parcels and carefully located in areas near roads and away from the agricultural, wet and forested areas of the property.



EXHIBIT B





Scenario #3 (cont.)

The Robertson Farm

Easement Generates Tax Deduction

- The value of the Robertson's conservation easement is considered a charitable contribution by the IRS.
- Mr. Robertson obtains the proper "before and after" conservation easement appraisal from a qualified *appraiser* to determine the value of his gift for tax purposes.
- Mr. Robinson has been investing in stocks and other tools that are subject to either capital gain or ordinary income tax. His deduction helps him to significantly lower his tax liability while he "cashes out" what he needs to begin his retirement.
- Because he now can retire comfortably, and the farm is protected by a conservation easement, he can sell the farm to his son who manages it for its agricultural value while also helping out his other children.





Scenario #4

Sale of a Conservation Easement (PDR)

The Brown Family Farm - Part II

- Remember the Browns? The Browns own a 200-acre fruit farm in Peninsula Township – Grand Traverse County
- The 4 siblings who inherited the farm now own it in an LLC.
- Some of the siblings want to realize some or all of their portion of the value in the farm. Others only wish to remain a part of the LLC and derive revenue from the farm operation.
- The farm operator's daughter is interested in taking over the farm operation in the future and is heavily involved in the business of the farm.





Scenario #4

Sale of a Conservation Easement (PDR)

The Brown Family Farm – Part II

(cont.)

- In order to restructure debt, make needed infrastructure investments and position the farm for transfer again to the next generation, the 4 siblings decide to pursue a sale of development rights (agricultural conservation easement) on the vast majority of the property. Fortunately, Peninsula Township has a locally funded program for this purpose.
- The family excludes an area of the shoreline sufficient to build one home or to sell in the future. This gives them a “liquid” asset if they need it. They don’t expect to or even want to have to use it - but they like having the option.
- The PDR revenue allows for payments to be made equitably to all the siblings and to restructure the farm operation so that the operator sibling and his family have the controlling interest of the LLC (they traded capital to the other siblings for a larger stake in the farm operation)
- Everyone’s goals from their ownership of the property are realized!

What You Need To Know!

- It's Never Too Early To Start Planning – But It Can Be Too Late!
- Learn About property tax issues associated with land transfers. Learn about PA 260 and PA 446.
- Familiarize yourself with agricultural conservation easements – their limitations and benefits - and potential applicability for your farm whether through a sale (PDR) or a donation.

Things to Consider!

- Is a conservation easement an option you to meet your family's wishes?
- Are you leasing land, or looking to buy land from a family with a long farming legacy? Might they be inspired by knowing that their farm will be forever protected for farming purposes? Could that motivate them to sell to you if you're willing to help them protect their land?
- Is there an opportunity to sell a conservation easement on land with which you are working such that it can make the land more affordable?
- Can the owners of farmland you'd like to buy benefit from the tax deductions associated with a conservation easement such that they may work with you on a sale at a reduced price?
- How can conservation play a role in my relationship with land that belongs to my family or that I currently farm?



Who Can Help You?

State and National Resources

National Resources

- USDA NRCS – FRPP (now ALEP) Program and other programs.
- American Farmland Trust – www.farmland.org
- Land Trust Alliance – www.lta.org

State Resources

- MDA - Farmland Preservation Office – (517) 373-3328
- [Heart of the Lakes Center for Conservation Policy – www.heartofthelakes.org](http://www.heartofthelakes.org)



Local Resources

Local Resources

MSU Extension

Local Conservation Districts

NRCS Regional Offices

Grand Traverse Regional Land Conservancy –

www.gtrlc.org

Leelanau Conservancy –

www.theconservancy.com

Little Traverse Conservancy – www.ltc.org

ISLAND - www.artmeetsearth.org



Feel Free To Contact Me!

Brian Bourdages

Farmland Program Manager

Grand Traverse Regional Land Conservancy

PH: 231-922-1261

Email: brian@gtrlc.org

Website: www.gtrlc.org

