



A Team Approach to Farm Transfer Planning Assistance



CONTRIBUTORS:

The Land Access Project's Farm Transfer Network Task Force:

Gary Anderson, University of Maine Extension
Bob Bernstein, formerly with Land For Good, New Hampshire
Kristen Castratoro, formerly with University of Rhode Island Extension
Rick Chandler, Massachusetts Department of Agricultural Resources
Jerry Cosgrove, Attorney, New York
Paul Dillon, Attorney, Maine
Jennifer Dubois, The Trustees of Reservations, Massachusetts
Adriana Eliot, Cheshire Mediation, New Hampshire
Jon Jaffe, Farm Credit East
Penny Jordan, formerly with Land For Good, Maine
Kate Kerman, Small and Beginner Farmers of New Hampshire
Annette Lorraine, Attorney, Vermont
Mike Sciabarrasi, University of New Hampshire Extension
Donald Sienkiewicz, Attorney, New Hampshire

EDITOR:

Kathy Ruhf, Land For Good, New Hampshire

[The Land Access Project](#) (LAP) is a region-wide collaboration to make farmland more available, affordable and accessible for New England farmers, especially beginning farmers. Led by Land For Good, LAP has more than two dozen partners who participate on five task forces. Taking a broad, systems-change perspective, the task forces work on educating farm seekers and help them locate farms, engaging non-farming landowners, improving farm transfer planning, and promoting innovative tenure models.

The [Farm Transfer Network of New England](#) helps farm families find the professional assistance and resources they need to develop good farm succession and transfer plans.

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to Farm Transfer
Planning Assistance

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Introduction

A. BACKGROUND AND PURPOSE

The Issues

With 70 percent of farmland in the United States expected to change hands over the next 20 years,¹ the agricultural community is paying increasing attention to farm transfer and succession issues. Alarms went off when the 2007 Census of Agriculture revealed that more than half of farm operators are over age 54 and there are twice as many principle operators over age 75 as there are farmers under 35. As a partial consequence of these patterns, farmland ownership is increasingly concentrated in the hands of older farmers. In fact, older farmers and landowners control more than one-third of all farm assets.²



In order to ensure that there is a strong agricultural sector well into the future, it is important that senior farm operators start thinking about their transfer plans early. But there are many reasons why farmers tend to put off this kind of discussion and planning. For example, 97 percent of the assets belonging to farmers planning to retire is tied to the farm, principally in farmland.³ This makes it financially challenging for many farmers to even consider transferring ownership of their land. To compound the situation, farmers are actively staying in farming for much longer than they did during previous generations. Often, farmers don't transfer their business and operation until their 70s and even 80s. Farm transfer also is more complicated than it was in the past, since the laws surrounding estate planning, land use, business entity formation and health care, for example, require specialized knowledge that many farm operators don't know how to access.

Finally, farm transfer is an emotional undertaking. While farmers often report that they avoid dealing with it because they don't have time, they are much less likely to reveal their emotional concerns about a secure retirement, physical deterioration, death, family tensions, future business viability and loss of meaning. Farm transfer planning requires farm operators to communicate about sensitive and personal matters with other family members, as well as with outside professionals. It requires a sustained effort involving complex matters.

For all these reasons, it is no surprise that farmers are reluctant to tackle succession planning. According to one study, 73 percent of farmers do not have succession plans in place.⁴ The majority of farmers who attended a 2009 workshop in New England about farm succession reported that they didn't know what to do next. Four-fifths of family farms do not survive the transfer to the next generation. But creating a farm succession plan will help a farm operation outlast the retiring farmer.

Despite new tools and websites dedicated to farm succession planning, there are too few programs, services and advisers dedicated to this critical issue. This is particularly true in New England where, unlike in the Midwest, we have very few professionals such as financial planners and attorneys who specialize in farming. Extension educators are stretched to capacity, and the private sector's interest in this specialty is limited.

Solutions

Much of this relatively new awareness about farm exit and succession planning comes from the push to cultivate the next generation of farmers. For example, the United States Department of Agriculture's Beginning Farmer and Rancher Development Program (BFRDP) lists farm succession planning as one area for competitive grantmaking. Regardless of whether they come from farm or non-farm backgrounds, many beginning farmers' futures are substantially tied to the plans of exiting farm families.

The Land Access Project (LAP) was funded by BFRDP. Led by Land For Good, LAP engaged more than two dozen partner organizations to address issues related to farmland access, non-farming landowners and tenure innovation. The Farm Transfer Network Task Force focused on strengthening services and resources for farm succession and transfer.

This handbook is one result of the task force's efforts. They conducted a cross-disciplinary training that focused on building farm transfer teams and the team approach. Task Force members also built upon the already established Farm Transfer Network of New England (FTNNE). In addition, this task force produced a handbook for farmers without identified successors and a transfer guide for junior operators, also known as future successors.

What is Farm Transfer Planning?

When referring generally to family businesses, "succession" is the transfer of management and leadership from one generation to the next. In this framework, succession is distinguished from the transfer of real estate and other assets that require changing legal documents."⁵ Often succession implies an intra-family transaction, but it is not necessarily limited in this way. Farm transfer is unique in that it generally involves both farmland (real estate assets) and the farm business. The transfer of land alone does not equate to succession of a business operation.

Farm transfer planning is a process to determine how a farm will pass to the next generation or a non-family transferee. The transfer plan addresses all pieces of the transfer puzzle and involves interpersonal, financial and legal matters. It lays out a path for the transfer of farm management, income and assets. A farm transfer plan typically addresses retirement needs, estate planning, farm viability, changes in business structure, and land-use and conservation goals.

The process engages various members of the farm family, often including multiple generations and in-laws. Other stakeholders such as farm employees and neighbors may also play important roles. The planning process can take months, and the plan may be implemented over the course of several years.

Cultivating a Team Approach to Farm Succession Planning

Given the complexity of the process and the personal issues and family complexities involved, it is understandable that

many farmers do not successfully address farm transfer on their own. It takes a whole team to support farm succession planning.

The purpose of this handbook is to build successful team-based approaches to succession planning assistance. No one expert can know all the ins and outs of succession planning; there is just too much specific technical knowledge for one person to manage. Furthermore, the family benefits when various perspectives and skills are brought to succession planning. To that end, this handbook introduces major concepts in each area of a comprehensive farm transfer plan. By familiarizing yourself with this content, you will have sufficient grounding to explain the basics of the various elements to a client, understand how an area fits into the whole plan, and find effective referrals and resources.

Advisers who work on farm succession stress the importance of taking a whole systems approach. Regardless of who is

the lead adviser, it is helpful when each member of the advisory team can envision the whole picture. Getting the attorney, financial planner and land-use consultant on the same team makes the work of each adviser more efficient and effective.

The authors of this publication recognize that much good work has already been done in this field. This handbook is intended to provide a cross-disciplinary overview of the various aspects of farm transfer planning, and to foster team approaches for service providers to work with farm families and each other. Each section directs readers to additional resources for more in-depth content.

This handbook also aims to convey the importance of the "soft" issues involved with farm transfer planning. Advisers emphasize the utmost importance of practices such as setting goals, communicating effectively and managing conflict. The service provider members of LAP's Farm Transfer Network Task Force share the conviction that regardless of an adviser's own specialty, he or she can be most effective when paying attention to a framework based on goals and values; effective communications; and building a sustained, supportive environment for the planning process.

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B. THE FARM TRANSFER NETWORK OF NEW ENGLAND

About 10 years ago, colleagues from the extension services in each New England state joined with Land For Good and other nonprofit organizations and professionals to deliver a series of workshops across the region called “Transferring the Farm.” With government and private funding, they conducted more than 20 sessions. Feedback from attendees confirmed that workshops were important but not sufficient to assure that farmers would continue to engage in transfer planning. So these colleagues formed a collaboration that conceived, designed and launched the Farm Transfer Network of New England (FTNNE).

FTNNE is made up of a loose association of professionals who play a role in helping farm families plan for farm succession. Its purpose is to help farm families find services and resources, and to foster teamwork among service providers. FTNNE brings together professional individuals and organizations available to provide farm transfer expertise and support. Members include farm management specialists, attorneys, tax planners, financial advisers, farm link specialists, land-use planners, mediators, retirement planners, estate planners, extension professionals, farm family consultants, accountants, conservation specialists and farm-transfer facilitators and coaches.

FTNNE manages a website, www.farmtransfernewengland.net, with a database of providers that farm families can search by state and topic area. Dozens of resources are available directly through the website or by order. Recently, the LAP project sponsored a session for the FTNNE in which veterans in farm transfer trained their peers. For example, attorneys worked directly with other attorneys. Participants in the training also built up cross-sector awareness: Estate planners, for instance, learned about conservation easements and limited development. As a result of this session, newly trained service providers were added to the FTNNE’s online roster.

Throughout this handbook we’ve listed resources found on the FTNNE and other websites. These resources deal with topics ranging from legal and business concerns in farm transfer to land conservation and family communication. Network participants are committed to using collaborative team approaches and to exploring less-traditional tools and models as part of their professional toolbox.

FTNNE receives administrative support from Land For Good and from the University of Maine Cooperative Extension.

Visit the FTNNE website,
www.farmtransfernewengland.net:

- Find farm transfer team partners.
- Build your knowledge and skills related to this important topic.
- If you are a service provider, list yourself in the online database at no charge. Simply complete a short online form.

¹ Kohl, D. and White, A. 2001. “The Challenge of Family Business Transition” www.reap.vt.edu/publications/horizons/hor13-5.pdf

² *Ibid.*

³ Parsons, R. et al., 2010. “Research Report and Recommendations for the FarmLASTS Project” p. 31. www.uvm.edu/farmlasts

⁴ Mishra, A., Durst, R. and Ol-Osta, H. 2005. “How Do U.S. Farmers Plan for Retirement?” *Amber Waves, USDA/ERS. Volume 3 Issue 2, April.*

⁵ Parsons, R. et al. p. 32.

Building Effective Farm Transfer Planning Service Teams

What is a Team?

A team is a group of people working together in a coordinated effort. It's that simple. With respect to farm transfer planning, it takes a team effort to achieve a successful outcome for the family. In nearly every situation, the farm operator cannot make or execute a plan on his or her own. Legal documents are needed. Tax questions arise. New business entities might be required. Retirement and health care needs must be calculated. Assets need to be inventoried and evaluated. Local regulations might require interpretation.

The farm transfer planning team will likely be comprised of many different professionals, depending on the unique circumstances of each client. One or more team members could be working directly with the client throughout the planning process, or could be brought in for specific information or tasks at critical moments. It helps to identify a leader of this team process. This can be an outside adviser such as an attorney or financial planner, or someone from within the farm family. It could also be a facilitator or coach whose primary responsibility is to coordinate the process.

Because the construction of the team will often evolve over time, it is important for all involved professionals to be proactive about:

- Stating clear guidelines and boundaries for individual and team work with the client;
- Protecting confidentiality and developing trust;
- Identifying needs for additional expertise; and
- Coordinating efforts with others to maximize productivity and efficiency.

Team Models and Roles

Many models portray how teams form and function. For this discussion, we call out four conceptual variations.

Family Lead: In this model, the farm operator or someone in the family takes the lead. He or she coordinates all the advisers, such as the estate planning attorney, lender, accountant, land conservation planner and farm link agent. He or she makes sure that meetings happen, that documents get drafted, that advisers consult with one another as needed and that



information gets transferred where it needs to go. All of the advisers work directly with the family, but not necessarily with each other.

Adviser Lead: In this model, one professional adviser sees to it that all aspects of the planning process move forward. For example, the family’s attorney pulls together meetings and may also consult with the tax accountant, etc. Other advisers may work directly with the family; some may connect to the lead adviser.

Facilitator Lead: In this model, a facilitator or coach is brought on with the explicit purpose of coordinating planning tasks and supporting the family. The facilitator makes sure that the right advisers are engaged with the family and with one another at appropriate times. The facilitator may coordinate or filter communications among team members and with the client.

Shared Lead: In this model, the client and core advisers share responsibility for getting the job done. Tasks are allocated, and there are agreed-upon timelines, benchmarks and procedures for working together and sharing information. A facilitator or coach may take on certain functions, as described above.

Regardless of the team structure, the client is the driver. The client’s needs and situation direct the course and outcome of planning. Advisers are there to provide knowledge and support. Furthermore, it is essential that each adviser communicate clearly about his or her areas of expertise and professional boundaries. The client should not expect an adviser to provide answers outside his or her specialty — nor should an adviser attempt to do so!

A team approach, bolstered by cross-peer trainings, assumes that advisers are at least familiar enough with content outside their professional universe to see the big picture and to refer other professionals. For example, a tax accountant who has a basic understanding of conservation easements would be a valuable member of a transfer team. At the same time, the team approach is built upon the assumption that advisers know and accept their professional limitations. A little knowledge is dangerous, and the worst mistake would be to convey misinformation to a client. Farm transfer planning teams are effective precisely because they bring various proficiencies to the client in an efficient and coordinated manner.

Questions to help with team building, communication, and efficiency:

- Who needs to be involved in each decision?
- Which team members need to be involved with which specific issues?
- What are the client’s financial constraints to obtaining a good transfer planning team?
- Does the farm family work best?
- How will the information flow?
- What permissions are needed, from whom and at what points?

The chart below shows a variety of possible professional roles in the farm transfer planning process. It does not imply that each role needs to be filled, or that each role is fulfilled by a separate professional. For example, a farm business consultant could serve as both the facilitator and retirement planner.

Professional Roles in Farm Transfer Planning

Communication, values clarification and goal setting issues	Farm business and land-use issues	Legal, financial and asset management issues
Coach	Farm business consultant	Lawyer
Mentor	Lender	Tax consultant
Instructor/trainer	Accountant	Insurance agent
Facilitator	Financial adviser	Financial adviser
Mediator	Land-use planner	Retirement planner
Educator	Conservation planner/land trust representative	Estate planner

In addition to the formal team members listed on the previous page, other trusted advisers may play key roles at any point in the transfer planning process. For example, a family friend, fellow farmer, clergy member, neighbor or relative may serve as an advocate or support person to your client. A trusted adviser can help to move the process forward if he or she is actively involved. This person could also be a hindrance if he or she offers contradictory information or somehow discourages the planning process. As an involved professional, you can help the farm family identify appropriate trusted adviser(s) in their lives, and welcome them into the transfer planning team.

*As the team grows,
the need for efficiency
and good communication
becomes more critical.*

Information Flow

To avoid pitfalls such as duplication of efforts, confusion or violation of confidentiality, all members need to be conscious of how information will flow. Explicit agreements about information flow are important and can be adjusted as the process evolves. The information flow can be structured in various ways, but is often aligned with the stages of development of the plan.

In one example, service providers do not communicate directly with one another, but each works individually with the client. This is common at the beginning of the planning process, and more likely if there is not a guiding coach, facilitator or lead adviser.

In another example, service providers are in communication with one another, as well as with the client. By exchanging information with one another, team members are able to work more efficiently and coordinate their efforts on behalf of the client. Team members sharing information with one another must have explicit written permission from the client to do so, and must continue to clarify goals and next steps with the client at every phase of the process. Identifying a primary coach will help keep such communications efficient.

Some clients will already have identified team members in one or more service area. For example, the client may have a trusted attorney with expertise in land-use or estate planning issues. However, the client might need help finding a financial adviser, insurance agent, lender or land conservation planner. As the team grows, the need for efficiency and good communication becomes more critical.

Effective farm transfer planning teams emphasize:

- Coordination
- Communication
- Content
- Confidentiality

Case Study: One Family's Farm Transfer Planning Experience

Sarah, 64, and Dale, 67, own 50 acres of very valuable land in a metropolitan area. They run a pick-your-own fruit operation and a small roadside vegetable stand, in addition to offering greenhouse and landscaping services. Theirs is a relatively simple operation with a high net worth, and their daughters Natalie, 35, and Nora, 38, are both involved in the business.

The farmland, owned by Dale, has been in his family for several generations, and it is currently worth more than \$10 million, primarily in real estate. The farm business is a successful limited liability company (LLC), typically netting income of more than \$200,000 on \$1 million in annual sales. Dale and Sarah own a home on the farm, and each of their daughters owns a home as well, with minimal debt. Dale and Sarah have been setting aside money for years, and have saved enough to meet their retirement needs, once they can no longer work the farm.

Dale and Sarah's farm transfer planning team consists of the following members:

- Farm business consultants: Nine years total involvement with the family; first one for six years and a successor consultant for the subsequent three years.
- Attorney: The primary attorney worked with family for more than 30 years; he brought in a second attorney with a specialty in estate planning and to work with Natalie and Nora.

- **Accountant:** The veteran accountant has a 10-year relationship with the family, and the junior accountant does the family's tax returns, enterprise analysis, gift tax returns, etc.
- **Appraiser:** Updates appraisals regularly for gift tax returns and estate planning purposes.
- **Loan Officer:** Works with both senior and junior generations to plan for the farm transfer.

The team typically meets for two to four hours twice a year. In attendance at the meetings are all family members, the farm business consultant, both attorneys and the junior accountant. The senior accountant, appraiser and loan officer are involved in meetings as needed, but primarily provide support outside of meetings. The consultant plans and coordinates the meetings in dialogue with the family members, sends out an agenda at least a week in advance, and sends out summary notes within two weeks of the meeting.

Topics at the meetings range from estate planning, management succession, business expansion, profitability analysis and development rights sale potential, among other issues.

The outcome in this case is that the entire farm operation was transferred to the next generation. The parents now only own their residence, savings and retirement funds. To accomplish this, the family used:

- Annual gift exclusions;
- Lifetime gift exclusion;
- Business valuation discounts (including long-term leases to reduce the value of the property); and
- Sale of partial development rights to reduce the value of the assets and fund the senior generations retirement needs.

Gift tax returns were filed in time to begin the statute of limitation clock, and appraisals and business valuations were professionally prepared. Estate planning team members held regular meetings to monitor and utilize estate plan rules and to assess both the senior generation's readiness to make the gift transfer and the junior generation's ability to receive the transfer.

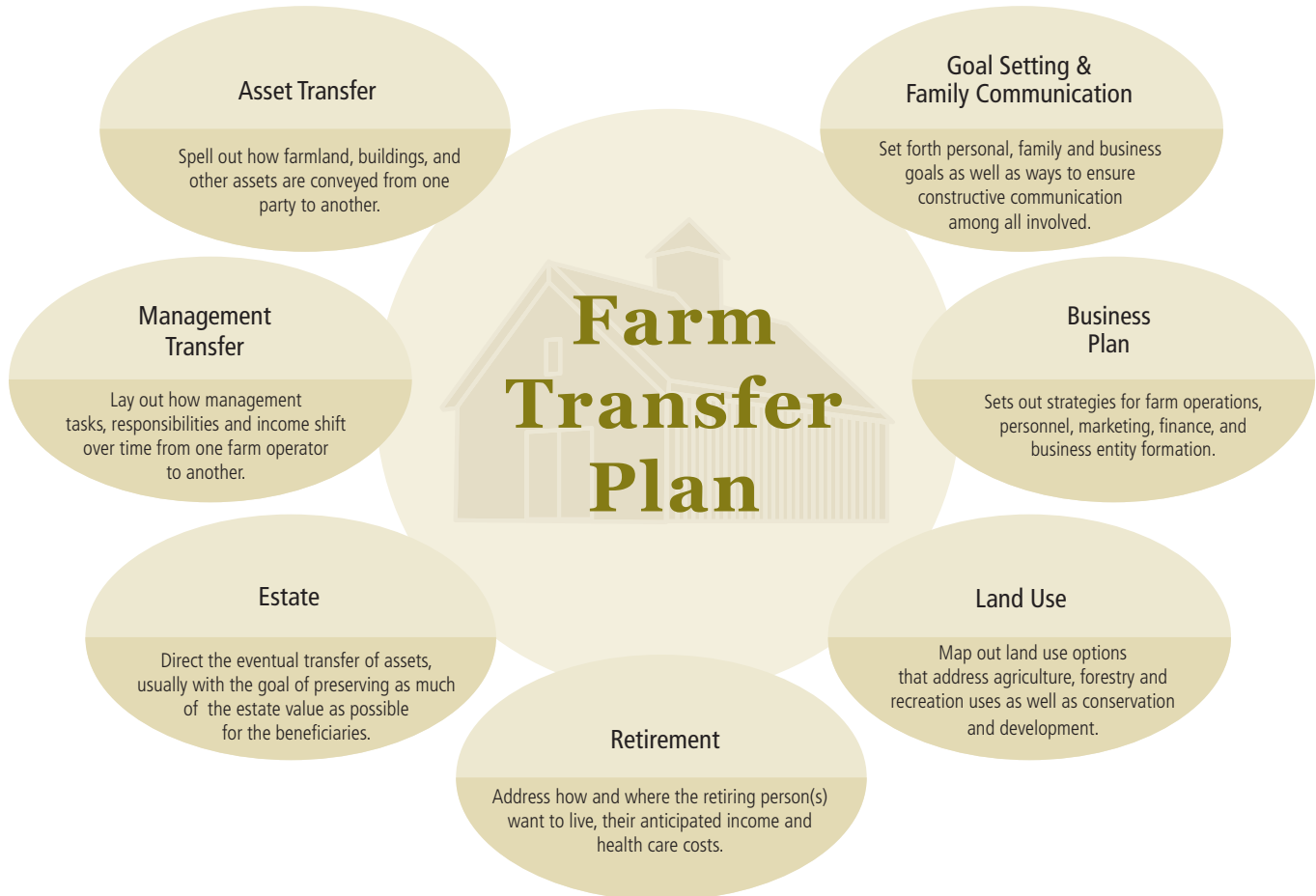
A few tips to remember:

- The size and makeup of the team will depend on the complexity and value of the farm operation.
- Not every farm transfer planning effort will be successful, due to financial, emotional and/or logistical issues.
- The cost of using a team approach can be expensive. Plan on it.
- Some transfer plans will start, stop and then resume.
- It is critical to have a strong leader who helps moves the process forward and holds team members accountable.
- Not all team members will work out. Be prepared and willing to change team members if necessary.
- *Keep an open mind, and encourage your clients to do the same. The ultimate transfer solutions may be significantly different than what the client initially envisioned.*

Elements of Farm Transfer Planning

A. THE PIECES OF THE PUZZLE

As a service provider with general or specialized knowledge, you will play an important role on a farm transfer planning team. You may find that you are functioning as the lead and/or primary coach, helping the client organize and address all of the elements needed for an effective plan, and coordinating the efforts of the team in a streamlined, efficient manner. Or you may be called in for your particular expertise in one area of the plan. Every farm transfer plan typically addresses most, if not all, of the following areas:



These issues are presented here as a collection, not as a critical path. In other words, there is no specific sequence, *except that setting goals must come first*. Different clients will address each issue uniquely, depending on their own circumstances. Based on the client's needs and comfort level, you may start with or emphasize different aspects of the plan, though eventually many plans will address most or all of these points to some degree.

Clients will need varying amounts of support in specific areas. You may have one client with excellent financial plans and clear retirement goals who has not taken any steps to establish a farm transfer plan, while another client has a great plan for the next generation, but hasn't done a thing about meeting his or her own retirement or health care needs.

What might begin as an informal kitchen table conversation will eventually be a multifaceted plan, comprised of a variety of legal and financial documents, and requiring the input of a number of different professionals. The client and all involved professionals need to develop a shared understanding of the overall goals of the farm transfer planning process.

Once goals and objectives are clarified — with the understanding that they may evolve during the course of planning — the tools and methods will follow. It is important to remember that there are quite a few tools in the transfer toolbox. Some are common, such as the traditional purchase-for-fee model, which assumes that both real estate and business are sold to the next generation or other transferee. This model comes with its own risks and drawbacks for both parties.

Need to Know

- Often, the best succession plans provide for a gradual transfer of assets, income and management.
- Tools that can provide win-win solutions for all concerned include leases, land contracts, bargain sales, life insurance and conservation easements.

Below are explanations of seven important tools that can be useful as part of a farm transfer plan:

Leasing is an excellent tenure tool to enable a gradual transfer because it can provide for possession and control of land, buildings, machinery, equipment and/or livestock without the successor purchasing them outright. For example, an exiting farmer could sell the farm business to a successor and lease the farm to him or her through a long-term, secure lease, while retaining ownership of the real estate into the future. On larger properties, it is possible to have multiple leases with multiple parties. A lease can be for the whole farm or for a particular set of assets in the enterprise. Both scenarios have advantages and disadvantages. A lease can

also be constructed as a lease-purchase agreement or as a lease with an option to buy. The farmer needs to be aware of tax considerations in lease arrangements.

A land contract is a purchase and sale agreement financed by the seller. Land contracts are more common in the Midwest, especially with intra-family transfers. Parents can self-finance the next generation, taking the sales proceeds over time as a form of retirement and spreading out the impact of capital gains.

Life insurance as a transfer tool is not uncommon. Besides generating an inheritance, paying estate taxes and providing financial security, life insurance can be used to fund a buy-sell or other purchase agreement. Life insurance proceeds can be applied to the non-farming heirs, while the farming heir receives the farm assets. Such an arrangement can be used regardless of whether the farm successor is a family member. Sometimes the intended farm receiver covers or contributes to the premium.

A bargain sale is when the farm or farm assets are sold for less than market rate. This is not uncommon between family members. How much of the value is transferred through a sale versus a gift — the difference between the market price and the sale price — depends largely upon the need to generate adequate proceeds for the senior generation to live on while making the purchase affordable to the junior generation.

Donation of one's farm property to a qualifying charitable organization has tax advantages for the donor. This might be an appropriate method if the exiting farmer cannot or chooses not to identify a successor. The donation can stipulate how the property is to be used. The receiving entity, for example, might agree to keep the property as a farm and run educational programs.

Life estate is when a landowner donates property to a charitable entity but retains lifetime use of it.

Limited development means that designated areas of the farm property are portioned off for development. Setting aside or selling one or more lots can be the key to making a workable transfer plan. *For further discussion, see the [Land-Use Planning and Conservation Tools](#) section in this chapter.*

Resources

1. An online digest of resources on farm succession planning: www.beginningfarmers.org/farm-succession-planning-resources/
2. Succession planning tools from the Farm Journal's Legacy Project: www.agweb.com/legacy-project/succession_planning_tools_menu.aspx

B. COMMUNICATION

As a service provider on a farm transfer planning team, your ability to engender good communications is critical. Communication occurs on several fronts, including:

- Developing a clear professional relationship with the client family;
- Assessing and fostering communication within the client family; and
- Working effectively and efficiently with the team of involved professionals.

Possible roles you or others might take on include:

Facilitator: Someone in charge of creating productive and efficient meetings, often involving advance preparation.

Coach: A person who helps and supports an individual or group toward achieving a desired goal.

Mentor: Someone who models how to do something well and is available to offer guidance.

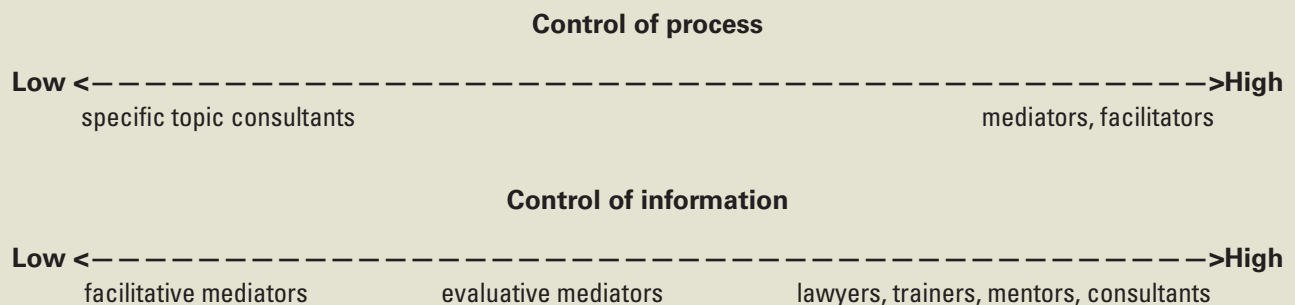
Instructor or trainer: A person who educates the person or group in specific content or skills.

Mediator: A neutral party who creates a process for parties to negotiate their own agreement.

Mediation is a specific procedure, typically performed by trained persons. There are three types of mediators:

- a. Facilitative mediators help the parties communicate, brainstorm options and develop an agreement. They do not need to have specific knowledge about the issues.
- b. Evaluative mediators have specific knowledge about the issues and may give opinions about the feasibility and even legality of the possible agreement.
- c. Transformative mediators are relationship-driven, not agreement-driven, working to help the parties communicate well and work together.

It is useful to think about these and other farm transfer team roles along two continua:



Client-Family Relationships

Effective communication with the client is essential to successful farm transfer planning. In many cases *it may be the most challenging aspect of the process*. The best plan in the world can be thrown off by one emotional reaction, a minor misunderstanding, or a resurfacing family conflict.

Professionals comment that, often, the hardest issues are the “soft” issues. This section focuses on how to tackle the soft issues by establishing trust and maintaining open lines of communication.

Families frequently need guidance as they work to express personal and family goals; understand their differences; and find ways to deal with the conflicts that may arise in making the significant long-term decisions involved in planning for the future of their farm. Service providers will have greater success if they remember that their clients may be emotionally affected by seemingly minor practical matters.

*Often, the hardest issues
are the “soft” issues.*

By understanding the complexities of the family dynamics at play, building trust and exploring barriers to agreement, professionals involved — regardless of their specific role — can help overcome apparent impasses and bring the plan to completion while maximizing the possibility of positive, productive relationships in the future.

All service providers need to have a healthy understanding of communication techniques as they work to develop rapport and trust, assess needs, develop appropriate goals, and work collaboratively within the farm transfer planning team.

Key elements of healthy communication include:

- Respect: *being attentive and non-judgmental in your listening and speaking*
- Integrity and accountability: *being honest, keeping your word*
- Self-responsibility: *admitting when you’re wrong and avoiding casting blame*
- Compassion: *showing genuine concern for and interest in the other*

- Creativity: *being flexible and willing to explore new ideas*
- Future focus: *learning from conflict and seeking shared solutions*
- Patience: *respecting the client’s pace and understanding that big decisions take time*

Active Listening

Regardless of your role on the team, listening is an essential skill at every step along the way. You must listen rigorously to gather complete and accurate information about client needs; understand the roles and activities of the other service providers on the team; and assess challenges along the way. The EARS mnemonic can help you remember to listen effectively by empathizing, asking, reflecting and summarizing.

EARS

Empathize with the speaker’s thoughts and feelings. Use phrases such as, “I understand you are angry about...”

Ask relevant, respectful questions. Use phrases such as, “Can you tell me more about...?”

Reflect what is said along the way. Use phrases such as, “You’d like me to...” and “You’d prefer if...”

Summarize and check for understanding. Use phrases such as, “I heard... Is that right?”

Communication Styles

In order to be an effective communicator, we each need to understand our own default communication style. We all have a habitual communication style, regardless of whether it is effective or appropriate. By becoming conscious of your style, you can draw on your strengths and learn to compensate for your weaknesses. Becoming more aware of communication styles will also help you understand the other people involved and allow you to work more productively with them.

Your personal style is both your strength and your weakness. For example, while a tendency to be direct helps get things done, it can alienate people and make it hard to reach compromise. A tendency to be cooperative and interactive is great for teamwork and building trust, but it may make it more challenging when you need to make an independent decision or take a stand on an unpopular position.

Below are some general guidelines for effective communication:

1. Pay attention to your default communication style and be ready to step outside your comfort zone from time to time.
2. Once you identify your most common pitfalls, plan ahead to avoid them. For example, if you tend to be compliant and cave in too easily, bring along an assertive support person. Or if you tend to interrupt and make demands, make a practice of taking a deep breath and counting to three before you speak.
3. Get to know your clients' and collaborators' styles in order to work with them most effectively.

Follow the links at the end of this section for more information about styles of communication and conflict.

Problem-Solving Steps

Even when you are doing your best to communicate well, conflict can and does arise. You might find yourself in conflict with a client or team member, or you might be a bystander, witnessing a conflict between team members, between another team member and a client, or within the client family. Directly address the conflict in a respectful, responsible manner, so that it doesn't fester and interfere with the important work at hand.

The following sequence of problem-solving steps can be used informally to diffuse a minor misunderstanding, or more formally, to intervene in a more complex communication or decision-making process:

1. Collect Information

Listen

Ask questions

Understand positions and interests

Frame an issue as a shared question or problem

2. Brainstorm for solutions

3. Evaluate the solutions

4. Choose solutions and write them down

5. Monitor progress and checking back if needed

Occasionally, despite your best efforts, you may find that a difficult relationship or communication challenge is threatening to destroy the planning process. Before you throw in the towel, seek outside support. Refer your clients to written resources, such as the "Two Generation Farming" guide referenced at the end of this section. Call in outside experts, such as a mediator, facilitator or family counselor to help rebuild positive communication and bridge misunderstandings.



Remember, farm transfer planning is likely to be a lengthy and dynamic process. New information will surface, new feelings will arise, and agreements may need to be refined along the way. A difficult conversation or apparent impasse on an issue is not a reason to give up. In fact, it is potentially a good sign, because it means that the parties are invested in the outcome and care about the process. Greet challenges as opportunities to learn, put your skills to work and keep communicating!

Healthy communication is essential to every aspect of the farm transfer planning process.

Resources

1. "Communication and Conflict in Succession Planning," by Sharon Danes, University of Minnesota Extension: www.uvm.edu/farmlasts/conference_outline/02Succession/05thesoftissues/danes_presentation.pdf
2. "Two-Generation Farming Series Step 3: Making it Work," by Don Hofstrand, Iowa State University Extension: www.extension.iastate.edu/Publications/PM1474C.pdf
3. Getting to Yes: Negotiating Agreements Without Giving In, by Roger Fisher, William Urry and Bruce Patton: www.williamury.com/books/getting-to-yes
4. The Magic of Conflict, by Thomas Crum: www.aikiworks.com/products.html
5. Nonviolent communication: www.nonviolentcommunication.com/index.htm
6. Free online conflict style inventories
Peace and Justice Support Network of Mennonite Church USA: www.peace.mennolink.org/resources/conflictstyle/index.html
Kraybill's Conflict Style Inventory: www.riverhouseeepress.com
Discus Online Personality Profiling: www.axiomsoftware.com/default.php
7. "Family Farm Succession Planning: Balancing Professional Responsibility with Client Needs for Help with Family Relationship Issues," by John C. Becker, Matthew S. Kaplan and John Nussbaum, National Agricultural Law Center: www.nationalaglawcenter.org/assets/bibarticles/beckeretal_family.pdf

C. ASSESSMENT AND SETTING GOALS

A good transfer planning process begins with taking stock of the farm business' resources; personal, family and business goals; and of the values and interpersonal skills of the exiting farm family. Iowa attorney John Baker, a national expert on farm succession states, "Unless you sit down as a family and do some serious preliminary talking, you might as well forget about retirement and farm transfer plans."

Need to Know

- During the assessment phase, gather information on the current situation, what's been done, who's involved, and what the client wants to do.
- Clarifying goals is the most important part of the process. The steps and instruments to accomplish the goals will follow.

Regardless of what role and expertise you bring to the planning process, it is always useful to clearly articulate your purpose with the client. Such purposes might include:

- Reach agreement on important decisions regarding transfer
- Get needed information and technical advice
- Develop relevant documents and agreements
- Establish clear tasks, responsibilities and timelines
- Be adequately prepared and supported to implement the transfer plan over time
- Become familiar with the family and property situation
- Understand and reach agreement on the transfer process

It is also important to clearly state what your role is and what the client can expect from your participation. If you are taking a coordinating or facilitating role, your tasks might include:

- Manage meetings: facilitate, listen, clarify and reflect
- Help identify what's needed
- Structure steps and tasks
- Build the team: refer other consultants as needed
- Help brainstorm options
- Help move the process along to completion
- Collect and compile documents, notes, etc., for the client

If you are a subject-specific adviser, such as an attorney specializing in estate laws, taxes or conservation easements, you will help the process by explaining the nature and boundaries of your expertise and how you will contribute to the client's overall assessment and goal-setting process.

Assessment

Some families rush to their attorney to have a will, LLC or other legal document drawn up, believing that this will take care of the future. But a legal instrument alone often will not accomplish the family's goals. Without the full picture, things could actually wind up in unexpected and troubling terrain.

During the assessment phase, the members of the farm transfer team need to gather information on the current situation, what's been done, who's involved, and what the client wants to do. Here are some guiding questions that can help guide the assessment phase:

- What is the current situation?
- What is the property involved and how is the land currently being used?
- What is the farm business? Are there any pending plans and changes in the operation?
- Is there a current inventory of farm and non-farm assets?
- Who is involved? Who has a stake?
- What has already been done?
 - Has the senior farmer met with any advisers on this issue?
 - Has the senior farmer met with family members and others involved?
 - Has he or she identified and discussed transfer issues with other stakeholders?
 - Has he or she identified a successor?
- What has already been decided?
- What documents, if any, are in place or in the works?

With a team approach, the client won't have to answer these questions repeatedly. Information can be shared among advisers, provided that each person involved rigorously observes confidentiality rules.

Goals

Typically, discussion about the current situation leads to talk about the future. This is where goals are expressed. But it doesn't necessarily work to launch right into asking the senior farmer what his or her goals are.

Goals are based on values. What the client wants to do (his or her goals) is derived from what the client believes is important (his or her values). For example, is it most important to protect the farm from being developed? Is it more important to keep the farm business in the family or to provide the senior generation with a certain level of retirement income? Is family harmony a value? Does the senior operator believe in helping launch the next farming generation by subsidizing the farm in some way? How comfortable is the client with risk? How important is security to him or her?

One way to learn about the client's values is to explore his or her vision for the future. What scenarios are likely and possible? What are the family's hopes and concerns?

Every adviser will benefit from knowing answers to the following questions:

- What are the senior operator's values and goals? What is important to him or her?
- What is most important to the operator's spouse?
- What is important to other family members and other stakeholders?
- What is most important for the farm business?
- What is the operator's — and the farm couple's — vision for the future? What are some likely and possible scenarios?
- What are the client's biggest concerns and challenges regarding the transfer?
- What are the client's biggest concerns regarding the transfer planning process?

From there, you can help the client draw out and examine specific goals and objectives. It is possible that this process will bring out conflicting or unclear goals, or goals that cause controversy within the family. You will need to help the client work through those possible stumbling blocks, since the goals and objectives become the framework for the rest of the transfer plan.

Resources

1. "Farm Succession Risk Management Checklist," by Dr. Patricia Frishkoff, Oregon State University: <http://riskcheck.familybusinessonline.org/>
2. "Transferring Your Farm or Ranch to the Next Generation: How to Combine Legal, Economic and Social Decision-Making," by Marsha A. Goetting et al., Montana State University Extension: www.msuxextension.org/publications/FamilyFinancialManagement/EB0149.pdf
3. "Transferring Management Decision Authority: Identifying What's Important Older Generation," by Sharon Danes, University of Minnesota Extension: www.cehd.umn.edu/fsos/projects/ruralmlnlife/pdf/Older%20Generation%20Worksheet%207%2017%2006.pdf

D. RETIREMENT AND ESTATE PLANNING

Regardless of your specialty as a service provider on a farm transfer planning team, you likely appreciate the unique challenges that farmers face in retirement and estate planning. Unlike other kinds of family businesses, farming frequently involves all aspects of life, so your client may need to plan for changes to home, business and lifestyle. In addition to providing your individual area of expertise, you will want to coordinate with other team members to ensure that retirement and estate plans are compatible with the client's overall needs and goals.

Need to Know

- A retirement plan addresses how and where the retiring person(s) will live and sketches out anticipated income, expenses and health care needs.
- An estate plan directs the transfer of assets upon death, and typically involves several legal tools such as wills and trusts. It can also include advance medical directives and power of attorney assignment.

Why the Resistance?

Retirement plans and estate plans are core components of a farm transfer plan, yet many people resist making them. Trying to envision retirement is difficult for many people because it is equated with becoming obsolete or unnecessary and losing control over one's life work. Similarly, nobody likes to envision the end of life.

Instead of trying to force people to focus on the unpleasant realities of their own mortality, frame the retirement and estate planning process in terms of the farmer's long-term core values. Retirement can open up new opportunities, including time for hobbies, travel or even a second career. Early in retirement, it is not uncommon for a farmer to serve as an adviser, mentor or part-time employee of a younger owner-operator. Thoughtful estate plans can reassure the exiting farmer of a meaningful legacy.

One of the challenges in talking about retirement is that it means different things to different people. Some farmers say they will never retire. This could mean that they will hold the reins until they drop. It could mean that they will pull back, spending some of their time helping bale hay or doing an occasional stint at the farmstand. At the same time, the senior operator's spouse might envision moving to Arizona or getting to those household projects that have gone undone for years. This is a good example of why it is essential that all team participants are clear on the goals and expectations of this process, and are committed to open communication.

It is also important that the senior generation shares a clear understanding about retirement. This doesn't mean that the farming couple has to have a definite plan or be forced to make premature choices. It does mean that the family and support team needs to know what is certain and what decisions are still in the mix all along the way.

Key Questions for Retirement Planning:

- Where will you live?
- How much income will you need?
- What are your anticipated health care needs?
- How will you maintain and strengthen family relationships?

Retirement Planning Basics

Often, retirement planners start with an estimated retirement date and then work backwards to address what needs to happen before then. If the idea of retirement is a gray area, the planning professional will try to establish some benchmarks and a general timetable.

The planner helps the farmer or farm couple create a budget that reflects anticipated expenses at the time of retirement, taking into consideration lifestyle and unique

financial realities. To create a budget, the farm couple will need to think about how its cost of living may change as they age, particularly if retirement includes a move off of the farm. Living expenses such as food, utilities, auto insurance and personal care items are likely to remain similar, while other expenses, such as health care, health insurance and travel, are likely to increase in retirement. Encourage the client to estimate expenses on the high side and take inflation into account. This will guard against an unexpected shortfall later on.

The next step is plotting out your client's retirement income options, which can originate from sources both on and off the farm. Social Security benefits alone are usually insufficient to cover retirement expenses. Farm income sources may include the sale of business assets and/or renting farm property. As the retiring generation explores its possible farm income sources, they may benefit from hearing advice from multiple advisers. For example, an accountant can educate the couple on the tax implications of different methods of transferring a property, including an installment sale. In addition, a lawyer may be needed to help draft a well-written lease or sales agreement as part of the projected sources of retirement income. If the couple has a retirement savings or investment plan, the plan administrator may also provide important information.

Many people worry about the cost of maintaining good health in retirement, and living longer usually means some form of long-term care. Discuss with your client the health care resources and facilities in the community, keeping in mind that nursing home care is not the only option. For example, many people who need assistance live at home or with relatives. Long-term health care costs may be covered in a variety of ways, including personal financial resources, long-term care insurance or by relying on Medicaid.

Estate Planning Basics

Estate planning allows clients to plan for care of themselves and their loved ones, if and when they become disabled or die. Rather than focusing on loss, savvy estate planners help

clients understand that a good estate plan allows them to retain full control of their resources, so they can transfer what they have to whom they want, the way they want and when they want. A good estate plan will also allow the client to save as much as possible in taxes, court costs and legal fees.

Estate planners begin with a candid conversation with the client to understand his or her goals and objectives, expectations and concerns, hopes and dreams — while he or she is still alive and after death. The next step is to identify and involve the other family members who will be affected by the farm transfer. Depending on the family dynamics, it may also be useful to have a family counselor or mediator involved to help manage feelings, expectations and any differences of opinion between the parties.

Once an estate planner has established the client's primary objectives, he or she coordinates with the other members of the client's transfer planning team. As emphasized above, these team members could include the client's lawyer (if the estate planner is not the main attorney); an accountant; financial adviser; insurance professional; and an agricultural extension agent or someone else who is familiar with farm transfers.

Key Questions for Estate Planning:

- What are your dreams for this farm after you are gone?
- What fears or concerns do you have about the future of the farm?
- What would you like to leave the next generation?
- What are your family's expectations?

There are basically two platforms used for estate planning: the will-based platform and the trust-based platform. Legal and financial advisers can help determine which platform or combination is most appropriate and what other estate planning tools might be used in carrying out a client's farm transfer plan.

Will-based platform typically includes:

- Will
- Durable financial power of attorney
- Durable advanced health care directive

Trust-based platform typically includes:

- Fully-funded revocable living trust
- "Pour-over" will
- Durable financial power of attorney
- Durable advanced health care directive

Estate planning includes several important legal options, such as:

Trusts

The trust is a very flexible tool for farm families. It is easily established and may be used as a substitute decision maker. You can create the trust with small amounts of money and transfer in additional funds over time. The rules governing both the conduct of the trustees and the rights and protection for the beneficiaries are well established. Trust terms can be established to meet individual needs, including estate tax concerns, determination of the beneficiaries, and the rules to govern the actions of the substitute decision maker. Some trusts avoid probate.



Estate Probate

Probate refers to the method by which an estate is administered and processed through the legal system after an individual dies. The uninitiated may view the estate probate process as impossibly complex. Indeed, many complicated issues may arise. However, the typical estate does not involve unmanageable problems. Probate is involved whether or not there is a written will. However, not all assets pass through probate. During the process, creditors are paid, assets are inventoried, beneficiaries are notified and estate property is distributed.

Advance Medical Directives

Physicians initially showed resistance to advance medical directives, or living wills. However, many physicians now prefer that patients prepare one. Often a physician, nurse or other hospital personnel will inquire about or suggest an advance medical directive when a person is admitted to a

medical facility. A properly drafted directive can simultaneously carry out one's wishes while relieving family members from needing to make potentially heart-wrenching decisions during a time of stress.

Health Care Needs

Because nursing home care is very expensive, an important factor in any estate plan is how likely the client is to need this kind of care. Long-term care planning considerations often overlap with and may conflict with other estate planning considerations. For example, the manner in which assets are transferred to a trust or how real property is transferred to a limited liability company both affect Medicaid eligibility. Indeed, complex and constantly changing Medicaid qualification rules present serious challenges and may limit estate planning opportunities.

Resources

1. "Planning the Future of Your Farm: A Workbook Supporting Farm Transfer Decisions," by Robert Andrew Branan, Virginia Cooperative Extension: <http://pubs.ext.vt.edu/446/446-610/446-610.html>
2. "Prepare Your Estate Plan," University of Massachusetts Extension: www.extension.org/pages/15749/prepare-your-estate-plan
3. Estate Planning and Taxation, Natural Agricultural Law Center: www.nationalaglawcenter.org/readingrooms/estateplanning/
4. "Farm Transfer and Estate Planning Fact Sheet," American Farmland Trust: www.farmlandinfo.org/documents/27981/Estate_Planning_1-04.pdf
5. "Retirement Estimator for Farm Families" www.ces.purdue.edu/farmretirement/

E. BUSINESS PLANS AND STRUCTURES

Typically, farm transfer requires addressing multiple legal and financial issues and producing a variety of documents in addition to those required for estate and retirement planning. Business structures may need to be created or revised to facilitate the transfer and to make optimal use of the available resources, in order to protect the farm family, successors and the future of the farm itself.

Need to Know

- The business plan states the vision and goals for the farm business and influences the timetable for transfer decisions and actions. A farm business plan covers management, finances, marketing and operations.
- Both the process of business planning and portions of the plan itself figure prominently in farm transfer. The business plan may also be necessary to secure a loan or lease.

Business Entities

There are essentially eight different business entity types that are used in farm transfers, depending upon the goals and objectives of the parties' entities. A farm transfer often calls for the formation of one or more new business entities. For example, a sole proprietorship (the current farm operator) could be replaced by a limited liability company that includes a successor. Advisers often suggest creating a separate LLC to hold real estate assets, from which the farm business would then lease the property. Operating agreements that spell out how the business entity functions provide creative opportunities for transferring assets, management and responsibility. The proper entity can incorporate other stakeholders into the business structure, which can work to everyone's advantage.

Eight Common Business Entities Used for Farm Transfer

- Sole proprietorship
- General partnership
- Subchapter S corporation
- C corporation
- Limited liability company
- Low-profit limited liability company (L3C)
- Joint operation
- Family limited partnership

Depending upon how they are used in the farm transfer plan, each of the following business entities could have both positive and negative aspects. In choosing a business entity or combination of entities to use in planning, it is important for the adviser to determine the client's desired end result.

Again, clarifying long-term goals and objectives along with the other members of the farm transfer team is paramount to decide which option, or combination of options, best meets the client's criteria.

Sole Proprietorship

A sole proprietor is very simple to establish and operate because there is only one owner. That means the owner is in complete control. For tax purposes, income and expenses for the sole proprietorship are listed on a Schedule F (farm) or Schedule C (small business) and fastened to the owner's personal 1040 income tax return and taxed at his or her personal income tax rates. A sole proprietor has unlimited personal responsibility for all business liabilities. This means that the owner is personally responsible for repaying any of the business' expenses. If the sole proprietor is sued, he or she puts all personal assets at risk. A sole proprietorship terminates at the death of the owner. There is no option for continuing sole proprietorship business interests. Transferring the assets of a sole proprietorship from one person to another can be very cumbersome.

General Partnership

A general partnership consists of two or more people in business to make a profit. It is simple to form and the business relationships between the partners are left largely to the details of the partnership agreement. For income tax purposes, the partners are only taxed once with income and losses being passed through to the partners and taxed at their individual levels on their personal income tax returns. Each partner is fully responsible for debts and obligations of the general partnership. For example, if one partner buys something without the other partner knowing about it, that other partner is still 100 percent responsible. Technically, partnerships dissolve if there is a transfer of 50 percent or more of the partnership interest. If there are three or more equal partners or the exiting partner owns less than 50 percent dissolution is not generally automatic.

Requiring that the transfer of an interest in a general partnership be subject to the approval of all the other partners can be a disadvantageous limitation. Another concern to address is that the general partnership will terminate on the death or disability of any of the general partners unless otherwise agreed on in the general partnership agreement. In addition, a deceased partner's share could end up going through probate while it is being determined how it should be transferred from the deceased partner to his or her heirs.

Corporation

There are two basic types of corporations. One is the subchapter S corporation, in which the shareholders are taxed similar to partners with the income and expenses passing through to the shareholders' personal income tax return. The other is the C corporation, in which taxes are paid twice, first on the level of the corporation and second on the dividends that are paid out to the shareholders. A corporation can have a perpetual life, meaning it can exist beyond the lives of the shareholders.

With either type of corporation, the shareholders (owners of the corporation) have limited liability protection from the actions taken on behalf of the corporation. This means that the individual shareholders are not personally responsible for the debts and other obligations of the corporation. Instead, the corporation depends on its assets. Shareholders can be restricted by a shareholders' agreement from transferring their ownership interest to an outside party, which could affect a farm transfer. On the other hand, it is often relatively easy to transfer ownership interest in a corporation because it can be done by transferring shares, which represent the shareholder's interest in all of the assets in the corporation.

Limited Liability Company

A limited liability company (LLC) has members, similar to shareholders in a corporation, that choose who manages

the business. Members can manage it or the members can hire an outside manager to run the business. Also, similar to a corporation, all members of the LLC have limited liability protection from the debts, obligations and judgments of the LLC. This means that any liabilities are restricted to the assets held by the LLC. Unlike in a corporation, an LLC's operating agreement — which governs how the LLC is dealt with — has great flexibility. This flexibility allows, for example, for different members to have different percentages of income and losses while still maintaining their full percentage of equity ownership. LLC members can also choose the form in which they want the LLC to be taxed. Specifically, a single-member LLC can be taxed as a sole proprietor or corporation, while a multiple-member LLC can be taxed as a partnership or corporation.

Low-Profit Limited Liability Company

A more recent type of business entity that is based on the limited liability company is the low-profit limited liability company (L3C). The primary requirement of an L3C is that it have a socially responsible and beneficial purpose. It is a mixture of for-profit and nonprofit motives. It often has socially conscious investors who are willing to accept a lower rate of return in order to support projects that meet their social goals. Another primary requirement of the L3C is that its certificate of formation include language that allows it to use foundation money in pursuit of its objectives.



Joint Operation

Joint operation is defined by the Farm Service Agency as “two or more individuals combining to pool resources and share profits or losses.” As with a sole proprietorship, joint operations have no legal existence independent of the owners. In addition, the participants in a joint operation have unlimited personal liability for the farm business obligations, just as they do with sole proprietorship entities. Each participant in a joint operation is considered to be one person under the current USDA payment limitation rules.

Family Limited Partnership

A family limited partnership involves both general partners and limited partners. The general partners usually have a very minimal percentage of ownership interest, yet they have complete control of the day-to-day operations. As general partners, they are personally liable for decisions that they make and their personal assets are at risk. On the other hand, the limited partners have no right to control the operation and typically have no right to transfer ownership without agreement from the other partners. In exchange for not having a right to control daily operations and a restriction on the right to transfer ownership, the limited partners’ exposure for liability is limited to just what assets they have put into the partnership.

Resources

1. “Creating a Limited Liability Company: The Nitty Gritty Details ,” by Beth Kennett, Bob Parsons and Jesse J. Richardson, Jr., University of Vermont Extension and Virginia Polytechnic Institute and State University Extension Service:
[www.farmtransfernewengland.net/Resources/Creating%20an%20Limited%20Liability%20Company%20\(LLC\)%20-%20The%20Nitty%20Gritty%20Details.pdf](http://www.farmtransfernewengland.net/Resources/Creating%20an%20Limited%20Liability%20Company%20(LLC)%20-%20The%20Nitty%20Gritty%20Details.pdf)
2. “Farm Savvy,” by John R. Baker, Beginning Farmer Center, Iowa State University. Order online:
www.extension.iastate.edu/bfc/materials-and-consultation
3. “Farmland Transfer & Protection in New England,” by Kathy Ruhf, New England Small Farm Institute. Order online:
www.smallfarm.org/main/bookstore/publications/
4. “Farm Business Structures: A Matrix,” Penn State University:
www.okcommerce.gov/Libraries/Documents/Business_Structure_Matrix_0807082491.pdf

F. LABOR, MANAGEMENT AND ASSET TRANSFER

A good transfer plan involves transfers of land, other assets, income and managerial control. When working with a client to develop a sound transfer plan, an adviser who understands farm management issues will coach the operator to think through the distinct aspects that are unique to the client’s situation. He or she will also seek the input of other team members whose expertise may be relevant.

Keep in mind that some transfers can be immediate, while others may be planned over time. Gradual transfers are often favored, as they can offer both parties financial advantages and time to adjust to new circumstances. A gradual transfer offers the incoming farmer time to learn, be mentored and build confidence in his or her abilities, finances and ambitions before investing significant capital or incurring heavy debt. A gradual transfer offers the outgoing farmer relief from some aspects of farming, while maintaining some involvement in the operation, in addition to income and tax advantages.

Need to Know

- Transfer of management is often inadequately attended to by farmers and farm transfer planners. Successors need time and guidance to develop managerial skills.
- There are different strategies to shift management responsibility. Sometimes this is the most sensitive area, as it deals with authority, control and relationships.

Labor

Without labor a farm operation would cease to exist. Meeting the ongoing labor needs of the farm is critical in the planning process and will vary significantly, depending on factors such as the existing and intended business structure, whether the identified successor is a family member, and how involved the senior generation will continue to be in ongoing operations.

The client’s family may include a next generation that is ready to provide the farm labor needed, but they might not have had a clear conversation about the terms of that labor or the long-term goals for the farm. These conversations may have complex emotional overtones, particularly if there are siblings or generations with differing desires or opinions about the future of the farm and family assets.

Advisers who help clients in this area try to guide them to plan for the transitioning labor needs of the farm and help them prepare for the necessary conversations with family and/or farm successor(s). It is not uncommon for adult siblings to find themselves derailed by old family dynamics, or for a retiring parent to have a hard time relinquishing control. Such bumps in the road are a normal part of the process and are to be expected. These bumps may appear at any point in the planning process, regardless of who is advising the client at the time. Be prepared to facilitate these conversations and to bring in outside help if the communication gets disrupted by conflict.

Key Questions for Transfer of Labor

- Do you plan to keep working on the farm during transfer? If so, what will your role be?
- Do you have clear agreements with existing family members and/or staff?
- What areas of expertise are required and how much labor is needed to run the farm operation?
- Does the existing business model adequately address the cost of labor?

The incoming operator may have grown up on the farm, but leading the farm operation into the future may require more labor and time than he or she has given in the past. This effort serves both to generate a product for the farm to sell and to teach the next generation the skills needed to operate the farm. As the size of the farm increases or responsibilities shift according to plan or changing realities, the farm operator may move from being primarily a laborer to being primarily a manager. Management requires an entirely different skill set than farm labor, and it's not a given that the next generation will be adequately equipped to take on the additional responsibilities.

Management

Successful farm operation requires proper management. Management is not a skill that is inherited; rather, it is acquired through training and experience, and there may be challenges along the way.

Ideally, the senior farmer will impart his or her management skills to the next generation through a combination of teaching what he or she knows and putting the younger farmer in a position where he or she can increasingly develop his or her

own management skills. It is natural for the senior generation to want the incoming farmer to succeed. To help ensure that, it can be wise for the exiting farmer to test the younger farmer's management skills in situations that are likely to result in success.

Once the successor's management ability has been cultivated and assessed, the transfer plan can move forward to accommodate that individual's strengths and weaknesses. For example, if the successor wants to live and/or work on the farm but does not have sufficient management expertise to handle the operation on his or her own, a skilled non-family farm manager could be hired to continue the operation.

Key Questions for Management Transfer

- Who will be the next manager(s)?
- Will the transition be gradual? If so, what steps will be taken to shift management?
- What additional training and/or staff may be needed?

Asset Transfer

There are three basic ways to transfer assets from the senior generation to the junior generation or to a successor outside of the family: sale, gift or inheritance. Within these, several variations exist, including a combination of sale and gift, lease-to-own and bargain sale, or partial gift. Determining the best approach depends on the financial needs of the senior generation, the earnings of the business and what the younger generation can afford to pay.

There is also no right time to transfer assets. The timing of the transfer depends on the ages of both generations, their "stage" in the business and the success of both the senior and junior farmers. Other considerations include each party's role in the operation, as well as the incoming farmer's labor and management abilities. The timing also depends on the nature of the asset being transferred. For example, some transfers involve real estate, while others only include working assets such as equipment and livestock. Of course, some transfers include both real estate and working assets. The overall transfer scheme can also include non-tangibles and non-farm assets, such as residences, recreational vehicles and personal valuables.

Resources

1. "Estate Taxes and Asset Transfer Mechanisms "in Agriculture," by Kynda R. Curtis and Margaret W. Cowee, University of Nevada Cooperative Extension: www.unce.unr.edu/publications/files/ag/2006/fs0609.pdf
2. Family Business Institute: Succession Planning: www.familybusinessinstitute.com/index.php/Succession-Planning/
3. "Transferring the Farm Series #1: Preparing to Transfer the Farm Businesses," by Robert D. Anderson, Gary A. Hachfeld and Erlin J. Weness, University of Minnesota Extension: <http://agmarketing.extension.psu.edu/Business/passonfarm/PrepareToTransferFarm.pdf>
4. Older Generation Worksheet: Transferring Management Decision Authority University of Minnesota Extension: www.cehd.umn.edu/fsos/projects/ruralmnlife/pdf/Older%20Generation%20Worksheet%207%2017%2006.pdf
5. Younger Generation Worksheet: Transferring Management Decision Authority University of Minnesota Extension: www.cehd.umn.edu/fsos/projects/RuralMNLife/pdf/Younger%20Generation%20Worksheet%206%2012%2006.pdf
6. "No successor" handbook: [www.landforgood.org/LFG_NoSuccessorHbook\(1-30\).pdf](http://www.landforgood.org/LFG_NoSuccessorHbook(1-30).pdf)

G. LAND-USE PLANNING AND CONSERVATION TOOLS

Land-use planning is an element that is often left out of or under-used in farm transfer planning. Most often, land-use planners work at the community or regional levels, focusing on issues such as zoning, transportation and growth management. Land-use planning at the individual property level deals with the natural and built features of the property or properties involved, in this case as part of a farm transfer.

In nearly every farm transfer planning situation, having some visual representation of the farm on paper helps everyone. At the very least you will need an assessor's map showing the property boundaries. Aerial photos, Natural Resources Conservation Service (NRCS) conservation maps, soils maps and any maps showing deed restrictions should also be available to team members.

A professional with land planning skills, especially with agricultural expertise, can be a very important member of the transfer planning team. Many professionals who work for conservation organizations have the relevant skills. So do some landscape architects, community planners, extension educators and cartographers. Conservation district and NRCS field staff have a lot of relevant skills and knowledge and should be part of most farm transfer planning teams.

Need to Know

- The farm's natural and built features may significantly influence the family's transfer options and decisions.
- Generating scenarios will help the team explore what is and what might be possible. For some situations, thoughtful examination of the land's features and constraints can result in positive, creative outcomes.

Farm Scenarios

Transfer planning is an opportunity to envision possibilities as well as to solve problems. Each adviser on the transfer planning team can stimulate and support both aspects. One way to help your client understand what is possible and to explore what might be possible is to generate scenarios. In addition to how the current farm operation is set up, for example, there could be other ways to use the farm's natural and built assets that might address existing problems such as wet areas or inconvenient access. The family might also brainstorm other scenarios that dramatically re-envision the farm. For example, a mainly livestock enterprise could be transitioned to a more diversified operation with animals and crops. Of course, alternative scenarios have to make financial sense. But they also have to work for the land, and sometimes creative options start with thinking about the land.

These questions can help your client start to generate alternative scenarios:

- How well are the current uses working for the farm business and for the people involved?
- What must or could be changed?
- What else could be done on the land?

A picture is worth a thousand words, and land-use maps can have the same value. As part of a farm transfer plan, maps that show current uses, soil types, natural and built features such as water resources, access roads, farm structures,

stone walls, views and fencing, for example, can be both the focus and the stimulus for fruitful family discussions.

Imagine an older dairy farmer who is considering a farm transfer. His dairy business is just hanging on by a thread. To make the business more viable and to secure both his retirement and the next generation, could the land be used in other ways? Could some pasture be converted to cropland? Could an additional barn relieve the current congestion in the barnyard? Could the forested acres bring some sustained revenue? Could a pond or well make livestock watering more efficient? If so, where should it be located? Could another house be built on the land to house the daughter who plans to take over the operation?

Agricultural Conservation Easements

A conservation easement, also called a conservation restriction, is a voluntary agreement between a landowner and a public agency or nonprofit organization to restrict certain rights of land ownership in order to protect the ecological, open space and other natural values of the property. In the case of an agricultural conservation easement, the purpose is to protect and preserve the agricultural features and capacity of the property. A conservation easement can be an important component of a farm transfer plan.

To secure a conservation easement, the landowner sells or donates certain rights to the land, typically prohibiting residential, commercial and industrial development. This restriction on development has a monetary value, which the receiving entity pays to the landowner. Some landowners choose to donate to the receiving entity the entire value of the land or part of it, a practice that is known as a bargain sale. The restricted land has a lower market value than the original plot.

Depending on how the easement is written, it may require that the land be kept in active farming, and/or that it is resold at agricultural value. The easement stays with the land, usually in perpetuity, except where specifically designed as a termed easement.



The funds to acquire an easement typically come from a variety of sources, including federal and state government, land trusts, grants and donation campaigns. Many states have public programs to purchase agricultural conservation restrictions. Massachusetts was one of the first in the country to initiate such a program. Federal dollars can be made available to acquire easements through the NRCS.

There are many reasons a farm family may choose to place an easement on its land. Some are motivated by a strong desire to prevent development and ensure the land will always be used for agriculture. Family members may also hold sentimental value or importance for certain natural features of the land, such as a view, forest, water body or unique habitat. Conservation easements also have financial and tax advantages. Some families use the proceeds from the sale of an easement to fund the senior couple's retirement or bequests. In addition, restricted land is usually taxed at a lower rate, since it is not developable land. Finally, because lower property values also mean lower income and estate tax payments, sometimes the junior generation or other transferee would be unable to afford to purchase and maintain the land if there wasn't an easement on it.

Still, conservation easements are not for all families. Some people don't want to deal with the government or impose any restrictions on future generations. Furthermore, if there is essentially no development threat to the land, the difference between market and restricted value would be minimal, making a conservation restriction unnecessary.

The important message to the client from farm transfer team members is that a conservation easement is like the other tools and methods described in this guide. It is worth knowing about, and could possibly be a valuable element in the transfer plan, but isn't required or even suitable for all situations.

Limited Development

Limited development means developing only a certain portion of a property as part of an overall plan that prioritizes natural animal habitats, water features or agriculture, for example, above commercial development. For instance, as part of a transfer plan, a farm family could identify certain areas of the property that are not crucial to the farm and could be better used as building lots for family members or other interested parties. Sometimes limited development is one part of a conservation plan in partnership with a conservation land trust or other organization. In these cases, an easement or other protective covenant might be involved. A land-use planner can generate maps showing where limited development might work best given the property's natural features, access points and location.

Stewardship

All farm operators care deeply about their land. As such, stewardship — the act of responsibly managing property — should be addressed early in the farm transfer process. It is important that the exiting farmer and other stakeholders articulate their stewardship ethics, values and goals. For example, how will a commitment to preserving a unique habitat play out in the mechanics and legalities of the transfer? A retired farmer has limited control over the practices of the next operator, and no one can legislate from the grave. The transfer plan, therefore, is the senior farmer's opportunity to ensure that his or her specific stewardship desires are carried forward.

An agricultural conservation easement is one tool to implement stewardship goals. Stewardship requirements, preferences and procedures can also be built into leases. Advisers will help the client balance heartfelt desires with impractical limitations.

At minimum, the farm family should spell out its stewardship principles. These are the reflection of a broad stewardship vision, such as building the long-term health of the soil, fostering wildlife or respecting the historic features of the farm property. Goals and practices follow from these broad principles. Many different farming methods and practices can address the overarching principles. Management systems such as integrated pest management, biodynamic agriculture, organic certification and the more general "sustainable agriculture" offer frameworks to address stewardship values.

Resources

1. "Holding Ground: A Guide to Northeast Farmland Tenure and Stewardship," by Kathy Ruhf, Annette Higby, Andrea Woloschuk et al., New England Small Farm Institute. Available online: www.smallfarm.org/main/bookstore/publications/
2. "Agricultural Conservation Easements," Farmland Information Center, American Farmland Trust: www.farmlandinfo.org/documents/27762/ACE_01-2011_.pdf
3. Your Land Is Your Legacy: A Guide to Planning for the Future of Your Farm," by Jeremiah P. Cosgrove and Julia Freedgood, American Farmland Trust. Order online: www.farmland.org/resources/publications/default2.asp

Farm Transfer Issues and the Role of Communities

Farm transfer has effects well beyond the exiting and entering farm families themselves; communities and policymakers also care about the future of local farms. Increasingly, citizens and civic leaders appreciate the roles that farms and farmers play in their towns and in the wider region. They understand the value of buying locally grown food and the benefits that a thriving agricultural sector has on to local economies, the landscape and quality of life.

Farmland preservation is a priority for many local and state officials. Public and private dollars make it possible to purchase development rights and protect critical farm parcels from conversion to non-farm uses. In the policy arena, local and state regulations can either foster or hinder farm viability, business innovation, farmers' markets, farmstands and on-farm processing, for example.

Yet, most often, awareness of land tenure and farm succession issues lags behind awareness about farmland protection. The most vulnerable time for a farm property is during a transition. If the farm family cannot find the information, tools and support it needs to make a successful transition, there will be fewer farm landscapes and fewer farm products available to buy locally.

Although farm transfer planning is a very personal undertaking, the public has an important role in the process. At minimum, communities can prioritize making sure that agricultural land remains actively farmed. They can publicly acknowledge the importance for farmers of access to and transfer of land. Massachusetts and Vermont, for example, offer public dollars to underwrite transfer planning as part of their farm viability programs.

At the community and neighborhood levels, citizens often care a great deal about local farms and what will happen to them. Even if the terms farm transfer and succession are not on their radar screens, if local residents hear that a farm may go out of business, be sold to development or abandoned upon the death of the senior farmer, members of the community will likely be concerned. Neighbors may donate to a fund to purchase a conservation easement for the property or a nearby farm operator may be interested in buying or renting some or all of the property to expand his or her operation. Neighbors with sizable properties might also make land available for lease as part of a scenario to expand or diversify the operation when it changes hands.

What can communities and policymakers do?

- Advocate for policies that foster farm viability and entrepreneurship.
- Encourage policy innovations such as tax incentives for leasing farmland to beginning farmers.
- Host information sessions about farmland access and transfer.
- Help support families engaging in farm transfer planning.
- Ensure that zoning bylaws are not unduly restrictive regarding farmer and farm labor housing, so that two families may occupy a farm, for example.
- Tie availability of benefits from programs such as farm viability and the purchase of development rights to transfer planning.
- Initiate actions that encourage new farmers to farm in their locale. Link them up with senior farmers.
- Reform purchase of development rights programs to meet both generations' needs by addressing issues such as housing, partitioning and purchase at agricultural value.

Resources

1. "A New Lease On Farmland: Assuring a Future for Farming in the Northeast," by Susan Witt and Jay Rossier, E.F. Schumacher Society: <http://neweconomicsinstitute.org/publications/essays/witt/susan/a-new-lease-on-farmland>
2. "Farm Family Succession in the 21st Century," by Richard J. Cressman, University of Guelph: www.cressman.net/farm-family-succession-in-the-21st-century/
3. "Farmland Transfer and Protection in New England," by Kathy Ruhf, New England Small Farm Institute. Order online: www.farmlandinfo.org/farmland_preservation_literature/index.cfm?function=article_view&articleID=29905
4. "Handing Over the Reins: A Comparative Study of Intergenerational Farm Transfers in England, France, and Canada," by Andrew Erring, University of Plymouth: <http://ageconsearch.umn.edu/bitstream/24905/1/cp02er75.pdf>
5. "Holding Ground: A Guide to Northeast Farmland Tenure and Stewardship," by Kathy Ruhf, Annette Higby and Andrea Woloschuk, New England Small Farm Institute. Order online: www.smallfarm.org/main/bookstore/publications/
6. "Lessons in Farm Transition Policy: A Review of Public Support for Intergenerational Farm Transfer Work in the U.S.," by Steve Schwartz, Marion Bowlan, and Grace Jones, California Farmlink: www.californiafarmlink.org/storage/documents/lessons_in_transition_policy.pdf
7. Property and Values: Alternatives to Public and Private Ownership, Charles Geisler and Gail Daneker, eds., Equity Trust. Order online: www.islandpress.org/ip/books/book/islandpress/P/bo3559339.html
8. "The Challenge of Family Business Transition," by Dr. David Kohl and Dr. Alex White, Farm Credit of the Virginias: www.reap.vt.edu/publications/horizons/hor13-5.pdf
9. "Farm Transfer and Community Development," Land For Good: www.farmtransfernewengland.net/Resources/community%20development%20piece.pdf
10. "Cost of Community Services Studies: Making the Case for Conservation," by Julia Freedgood, et al., American Farmland Trust. Order online: www.farmland.org/resources/publications/default2.asp
11. "Your Land is Your Legacy," by Jeremiah P. Cosgrove, Julia Freedgood, American Farmland Trust. Order online: www.farmlandinfo.org/farmland_search/index.cfm?function=article_view&articleID=28416
12. Ag Transitions website: www.agtransitions.umn.edu



**P.O. Box 625 • Keene, New Hampshire 03431 • Phone: 603-357-1600
info@landforgood.org • www.landforgood.org**

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