

A Viewing Guide for the Video:
FARMERS AND FARMLAND FOR THE FUTURE
Beyond Conservation Easements

THE PROBLEM

Certainly there is a problem in a place like Marin County, just north of San Francisco, but is it really a widespread problem?

As the video illustrates, it is a growing concern in many areas. In California it's a problem not just in Marin County but in much of the state. It is recognized as an extensive problem in Vermont, Massachusetts, and other areas where land prices are high and there is a concern not only with preserving farmland as open space, but with preserving farming itself.



“If you’re just concerned about protecting land as open space... you probably don’t care too much about who owns it, how much they’re paying for it. But it becomes a very critical issue if you’re talking about working landscapes.”

– Richard Hubbard, Massachusetts APR Program



“Twenty years ago this was not an issue that was on AFT’s radar screen. Now there are some parts of the country where AFT staff, working with local land trusts and local farmland protection programs, are distributing bumper stickers that say ‘It’s not farmland without farmers.’”

– Dennis Bidwell, American Farmland Trust

But what more can you do beyond using a conservation easement to remove the development rights from farmland? How do you guarantee that farmland continues to be actively worked by farmers?

Clearly, new approaches are called for.

“We may want to hold other property rights that would further reduce the value of the property and assure its affordability not only for the present buyer but perhaps for the next buyer.” – Bob Berner, Marin Agricultural Land Trust

SOLUTIONS

What “other property rights” can be held by land trusts and public programs to keep farmland affordable for farmers?

The video offers examples of two approaches. The first is used by Live Power Community Farm in Covalo, California, and by the Agricultural Preservation Restriction (APR) program in Massachusetts. This approach involves the use of a conservation easement with some features not found in conventional conservation easements. These specialized easements require that the owners actively farm the land, and they give the holder of the easement a purchase option that allows the resale price of the land to be limited to its agricultural value.

With our current APRs we have something we call an option at agricultural value that insures that when the land is sold the price is based on its agricultural potential. Also our current APRs require that the land actually remain in active commercial agriculture.”

– Richard Hubbard, Massachusetts APR Program



With the second approach – illustrated in the video by the cases of Roxbury Farm and Caretaker Farm – the land is owned by a land trust or other nonprofit, which leases it to the farmer through a long-term, renewable, inheritable ground lease. Farmer-lessees are able to own houses, barns, and other improvements on the land. The lease limits the price for which the improvements can be sold and establishes land-use requirements, including the requirement that the lessees actively farm the land as a primary source of livelihood.

The acquisition of these additional property rights means additional expense. Is the greater investment of charitable or public funds really cost-effective?

If the goal of a land trust or government program is to preserve not only open space but active farming, then it may *not* be cost-effective to acquire *only* the development rights. It may be that the only cost-effective approach is to take the additional steps needed to see that the goal is achieved.

In the video most of the examples involve farms that use the community supported agriculture (CSA) model. Are these approaches better suited to CSA farms than other types of farms?

As the success of the Massachusetts APR program suggests, these approaches can be effective with all sorts of farms. But it is often true that CSA farms – most of which practice organic or biodynamic agriculture – have special reasons to want the long-term land tenure that can be assured by these approaches. Farming operations that rely on applications of commercial fertilizer and pesticides may be able to shift from one parcel of rented land to another without great difficulty, but this is not the case for organic operations.



“For an organic farm it’s really hard to lose access to a particular piece of land. You’re building soil fertility all the time. If I was going to move to another location I needed long-term tenure.”

– Jean-Paul Courtens, Roxbury Farm

Local communities, too, may have special reasons for wanting to preserve CSA farms, which are not only attractive “working

landscapes” but provide fresh produce and other benefits for numbers of local people. Forms of land tenure that allow the community to share ownership with the farmers can be especially appropriate for CSA farms.

“The other major accomplishment [of the Vermont Land Trust], I think, has been to look at land conservation in the context of community.”

– Darby Bradley, Vermont Land Trust

Why go “beyond conservation easements”? Aren’t conservation easements a proven method of preserving farmland?

Conventional conservation easements remain an effective way of preventing the development of farmland and preserving it as open space. But keeping the land open does not necessarily mean that it will continue to be used as farmland.

“When conservation easements were first talked about as a means of protecting farmland twenty years ago, I’m not sure that anyone envisioned that there might someday be a difference between protecting farmland and protecting farmland as farmland.”

– Bob Berner, Marin Agricultural Land Trust



In some parts of the country today, the market value of land protected by conservation easements has been driven upward by buyers seeking country estates surrounded by open space. Such people are buying scenery and privacy, and the prices they are willing to pay can be far beyond what is financially feasible for farmers.

“I would say that about every child in the Williamstown public school system has been to this farm.”

– Elizabeth Smith, Caretaker Farm

“CSAs aren’t the classic type of agriculture but at the same time they generally have a great deal of community support. In effect we’re investing in the community to a greater degree when we’re protecting a CSA because we have all those additional partners in the effort.”

– Richard Hubbard, Massachusetts APR Program



Equity Trust, Inc., can provide sample documents, written commentary, and direct technical assistance regarding the land tenure models described in the video.

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