So You’ve Inherited a Farm, Now What?

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Items to be discussed:

• What is your land worth? – A look at Nebraska land values
• How do you appraise your land, and how do you find an appraiser?
• Communicating with family and what to do when things don’t go as planned
• What to do if you choose to sell the ground
• What to do if you keep the ground
• Cash rent, trends, and setting a starting rental rate
• How will your farm be managed?
• Written lease provisions you should consider

WHAT IS YOUR LAND WORTH?
Nebraska Farm Real Estate Survey

- Annual survey conducted since 1978 of Nebraska agricultural appraisers, professional farm managers, and bankers engaged in the land industry.
  - Preliminary results for land values and rental rates published the second week of March.
  - Full report published the following June.
- Nebraska Farm Real Estate website full access to these resources: http://agecon.unl.edu/realestate

Nebraska Agricultural Statistics Districts

[Map showing Nebraska's agricultural statistics districts: Northwest, North, Northeast, Central, South, South Central, Southwest, West, and Southeast.]
So You’ve Inherited a Farm, Now What?

Historical Nebraska Average Land Value & Corn Price 1978-2017

- **Northwest**: $715/ac, -5%
- **Southwest**: $1,560/ac, -13%
- **Central**: $2,785/ac, -14%
- **South**: $3,045/ac, -15%
- **East**: $5,790/ac, -12%
- **Southeast**: $4,285/ac, -15%
- **State**: $3,145/ac, -9%
- **Northeast**: $5,410/ac, -6%

Dryland Cropland (No Irrigation Potential)
Average Value – Feb. 1, 2017

- **Northwest**: $715/ac, -4%
- **Southwest**: $1,710/ac, -12%
- **Central**: $2,785/ac, -12%
- **South**: $3,045/ac, -15%
- **East**: $5,790/ac, -9%
- **Southeast**: $4,285/ac, -12%
- **State**: $3,145/ac, -9%
Center Pivot Irrigated Cropland
Average Value – Feb. 1, 2017

So You’ve Inherited a Farm, Now What?

Grazing Land (Nontillable)
Average Value – Feb. 1, 2017

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HOW DO YOU APPRAISE YOUR LAND?

Appraising land

• What is an appraisal?
  • An appraisal is professional appraiser’s opinion of market value on a property such as land, buildings, or a farm.

• Why get an appraisal?
  • To determine the current market value of the inherited farm and understand how local economic and market forces influence real estate in an area.
  • Gain perspective on the type of land and value associated with different improvements.
  • Understand the value associated with improvements such as barns, machine sheds, or irrigation equipment may be physically depreciated or functionally obsolete.
So You’ve Inherited a Farm, Now What?

How to find an appraiser

• Appraisers are licensed to perform appraisals in Nebraska.
  • Public listing of appraisers can be found at: http://www.appraiser.ne.gov/
  • Select Appraiser Listing on the website and then click Appraiser Listing/Nebraska County Map to display interactive map to locate an appraisal professional.

Communications, family relationships, and having a plan for the land
So You’ve Inherited a Farm, Now What?

Choices, Choices, Choices

• Sell!
• Keep in family?
  • Keep and farm it?
  • Keep and rent it?
  • Use land manager?
• The parties involved need to agree on that future

CONSIDER THIS FAMILY

Mom and Dad have two quarters of irrigated farmland

• Two farming Sons
• Estate plan was to get one quarter to each son
• Parents pass – quarters given – however – the value of each quarter was vastly different –
  • One was nearly perfect
  • One was sandy and had a bad well (sucked air at times)
• Brothers got in a dispute
  • Now no longer talk to each other

What could be done differently to avoid this heartache?
Communication - Important

- When done with the process – are you still going to have a family?
- Most peoples’ goal is to hold the family together(?)
  - Don’t make that assumption – get that commitment
- Best way is to be open and clear with communications
- Who participates in that discussion?
- Put all options on the table

Communication - continued

Consider using some sort of family meeting process

- Schedule meeting – not at major Holiday (if possible)
  - Not at Grandma’s kitchen table (family dinners)
- Will probably take more than one meeting
- Take notes, record the conversation
- Be sure to include off farm family
Communication - continued

Be aware of the sweetheart deals
• Surprises cause problems (story about Grandma and pivot, or on-farm brother)
• Get both sides of every story!

• Listening is the Key!
• (Practice) Make partner repeat what they thought you said – to be sure that they heard you, or that you said what you wanted intended
• Make sure that you understand the other person’s point of view (seek first to understand, then to be understood)
• Spend plenty of time establishing the ‘goal’ or vision
  • Suggested up to 80% of the time with the vision – or what this will look like
  • Envision the Future! (Mark and Nancy story)
Communication

1. Allow all to have input
   * Know that there will be different expectations based on personality, age and participation
2. Then follow Golden Rule – ‘ye who has the gold makes the rule’

Farming Heir

• Is that on-farm sibling being treated fairly?
  • Have they been fairly treated for the sweat equity that they have contributed
  • Honest evaluation of this is key
    • Avoid feelings of entitlement
    • Avoid mistrust

• Know that perception of input is different
  • For off-farm sibling
  • For on-farm sibling
More on the Situation…..

Fair is not always equal

Typically, older generation thinks that fair means equal
  • Not necessarily true
  • Appropriate for on-farm heir to receive compensation for
    sweat equity – (building maintenance, non-crop weed control,
    volunteer tree control, fence maintenance, terrace maintenance, rock on
    driveway, etc.)
    • Thus the need to be fair
    • Also means that you may not divide asset equally

Fair vs. Equal

  • Over the years, Mom and Dad (generational value) have
tended to make the pie slices equal, but is that fair?
    • In some cases – yes
    • Each situation is different – no one solution to this discussion
Contribution = Compensation

- Four Children
- One farm
- Instead of dividing equally, @ 25% each consider
- Dividing by 5 or 20% each
  - Farm sibling receives fifth share for their contribution – actually receives 40%
  - Others receive 20% instead of 25%

Is the family plan in place?

- Do you all agree?
- Is it OK to have a majority vote, or a unanimous vote?
- Remember one of my first statements – do we want the family together when this process is finished?
- When do you get help?
  - What can that help look like
Help with the family plans (when we don’t agree)

- Clergy
- Trusted family friend
- Other ag professional in community—like a banker
- Family Lawyer
- Mediation/Arbitration (see next slide)
- Lawsuit(s) – court will decide

List from less expensive to most expensive

Get help when needed:

**Mediation/arbitration**, or med/arb, is a process by which the parties try to mediate their dispute with a neutral person, the **mediator**. If they cannot agree on a resolution, then the **mediator** becomes an **arbitrator**.
More on arbitration…

- Is arbitration decision final?
  - In binding arbitration, the arbitrator's decision is final. It may not be reviewed or overturned by a court except in very limited circumstances, such as when fraud or misuse of power has been involved. In nonbinding arbitration, either party may reject the arbitration award and demand a trial instead.

Get and use help when needed

- Rural response Hotline – for transition/transfer questions-1-800-464-0258
  - Make appointment for local clinic (example: Norfolk/monthly)
IF YOU SELL THE GROUND

Tax Implications of Gifts and Sales

- If you received the land as a gift...
  - Upon sale, you will be responsible for capital gains tax using the original purchase price
  - If you gift the land to another it is only worth original basis, but will be considered at market for your lifetime exclusion (may require filing an IRS Gift Form)

- If you received through the estate funnel
  - Upon sale, you will be responsible for the capital gains tax on the step-up (or down) value
  - If you gift the land to another it is worth new basis, and will be considered at market for your lifetime exclusion (may require filing an IRS Gift Form)
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Your Options Under 1031

• Basically – IRS allows you to sell a property and reinvest the proceeds in a new property all while deferring capital gains tax
  • Generally have 180 days to complete the exchange
  • Must have 100% preservation of the equity for full deferral and must have a like-kind replacement
    • Can’t sell farmland and buy a boat – not similar enough
    • Can sell farmland and buy unimproved property in another state or improved property as an investment
    • See your tax and legal counsel when considering what does and does not qualify for these exchanges

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Choosing to Keep the Farm in the Family
Dryland Cropland
Rental Rate Ranges – 2017 Season
(Nebraska Farm Real Estate Survey)

### North
- High (H): $67/acre
- Average (A): $55/acre
- Low (L): $41/acre

### Northwest
- High (H): $41/acre
- Average (A): $29/acre
- Low (L): $23/acre

### South
- High (H): $56/acre
- Average (A): $39/acre
- Low (L): $28/acre

### Central
- High (H): $120/acre
- Average (A): $88/acre
- Low (L): $68/acre

### Northeast
- High (H): $265/acre
- Average (A): $215/acre
- Low (L): $170/acre

### East
- High (H): $235/acre
- Average (A): $195/acre
- Low (L): $155/acre

### By Region
- High Grade (H)
- Average (A)
- Low Grade (L)

### South
- High (H): $115/acre
- Average (A): $72/acre
- Low (L): $56/acre

### Southeast
- High (H): $200/acre
- Average (A): $155/acre
- Low (L): $130/acre

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Dryland Cropland
Rental Rates – 2017 Season
(USDA-NASS Survey – Sept. 8, 2017)

### Dollars/Acre
- 175 +
- 121 - 175
- 61 - 120
- < 60
- Unpublished
So You’ve Inherited a Farm, Now What?

Center Pivot Irrigated Cropland
Rental Rate Ranges – 2017 Season
(Nebraska Farm Real Estate Survey)

- **Northwest**
  - High (H): $240/ac
  - Average (A): $205/ac
  - Low (L): $160/ac

- **North**
  - High (H): $240/ac
  - Average (A): $205/ac
  - Low (L): $160/ac

- **Central**
  - High (H): $270/ac
  - Average (A): $230/ac
  - Low (L): $215/ac

- **Southeast**
  - High (H): $315/ac
  - Average (A): $265/ac
  - Low (L): $225/ac

- **Northeast**
  - High (H): $350/ac
  - Average (A): $305/ac
  - Low (L): $250/ac

- **East**
  - High (H): $325/ac
  - Average (A): $290/ac
  - Low (L): $245/ac

- **South**
  - High (H): $270/ac
  - Average (A): $225/ac
  - Low (L): $195/ac

By Region
High (H)  Average (A)  Low (L)

So You’ve Inherited a Farm, Now What?

Irrigated Cropland
Rental Rates – 2017 Season
(USDA-NASS Survey – Sept. 8, 2017)

[Map showing rental rates for various counties in Nebraska]
So You’ve Inherited a Farm, Now What?

Pasture per Acre Rental Rate Ranges – 2017 Season (Nebraska Farm Real Estate Survey)

By Region

- **Northwest**
  - H: $36/ac
  - A: $25/ac
  - L: $16/ac

- **North**
  - H: $49/ac
  - A: $34/ac
  - L: $31/ac

- **Southwest**
  - H: $32/ac
  - A: $22/ac
  - L: $18/ac

- **Central**
  - H: $47/ac
  - A: $35/ac
  - L: $22/ac

- **Northeast**
  - H: $76/ac
  - A: $62/ac
  - L: $42/ac

- **East**
  - H: $70/ac
  - A: $53/ac
  - L: $38/ac

- **South**
  - H: $47/ac
  - A: $35/ac
  - L: $22/ac

- **Southeast**
  - H: $68/ac
  - A: $49/ac
  - L: $33/ac

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**Pasture per Acre Rental Rates – 2017 Season**

(USDA-NASS Survey – Sept. 8, 2017)
So You’ve Inherited a Farm, Now What?

Cow-Calf Pairs
Rental Rate Ranges – 2017 Monthly
(Nebraska Farm Real Estate Survey)

By Region
High Grade (H)
Average (A)
Low Grade (L)

Northwest
H: $75.80/pair
A: $61.05/pair
L: $46.75/pair

North
H: $75.80/pair
A: $61.05/pair
L: $46.75/pair

Central
H: $66.15/pair
A: $53.30/pair
L: $40.70/pair

South
H: $58.10/pair
A: $47.30/pair
L: $38.80/pair

East
H: $70.20/pair
A: $51.10/pair
L: $44.10/pair

Southeast
H: $65.60/pair
A: $48.50/pair
L: $41.15/pair

Northeast
H: $68.30/pair
A: $53.20/pair
L: $42.80/pair

South
H: $58.10/pair
A: $47.30/pair
L: $38.80/pair

Southeast
H: $65.60/pair
A: $48.50/pair
L: $41.15/pair

Agricultural Farmland Leases
Setting Cash Rental Rates
Types of Cropland Leases

- **Crop Share**: landowner receives percentage of actual crop yield as payment for leasing the agricultural land to tenant. Landowner may share input and production costs of raising the crop.

- **Cash Lease**: landowner receives an agreed upon cash payment amount for leasing the agricultural land to the tenant.

- **Flex Lease**: landowner and tenant set a base cash rental rate which can flex upon actual crop yields, prices, or a combination of the two.

Setting Cash Rental Rates

- Setting a cash rental rate needs to be **viable** given the needs of the landlord and tenant.

- Rates may be set according to:
  - Fixed amount per acre for all acres on the farm.
  - Fixed amount per cropland acre.

- Different methods may be used to calculate a rental rate, but all methods must arrive at a **viable** rate.
Methods for Setting Cash Rental Rates

• Basic methods for estimating a cash rental rate:
  • Adjusting survey data.
  • Cash equivalent from crop share.
  • Return on investment.

Estimating Cash Rental Rates by Adjusting Survey Data

• Land rental rate survey data:
  • Evaluate available cash rental survey data to establish a baseline in the landlord and tenant negotiation process.

• Average yields:

<table>
<thead>
<tr>
<th>County</th>
<th>Value</th>
<th>Farm</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>County Rental Rate</td>
<td>$150/ac.</td>
<td>County Rent/Bushel</td>
<td>$1.50/bu.</td>
</tr>
<tr>
<td>Corn Yield</td>
<td>100 bu/ac.</td>
<td>APH Yield x 115 bu/ac.</td>
<td></td>
</tr>
<tr>
<td>County Rent/Bushel</td>
<td>$1.50/bu.</td>
<td>Farm Level Rent $172.50/ac.</td>
<td></td>
</tr>
</tbody>
</table>
Return on Investment

- Multiply the estimated current market value by the expected rate of return to determine the rental rate per acre.

<table>
<thead>
<tr>
<th>Farm</th>
<th>Dryland Cropland</th>
<th>Irrigated Cropland</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Value</td>
<td>$5,000/ac.</td>
<td>$8,500/ac.</td>
</tr>
<tr>
<td>Rate of Return</td>
<td>x 2.7-3.1%</td>
<td>x 2.8-3.2%</td>
</tr>
<tr>
<td>Rental Rate per Acre</td>
<td>$135-$155/ac.</td>
<td>$238-$272/ac.</td>
</tr>
</tbody>
</table>

***Estimated net rates of return by land type are available in Table 5 of the Nebraska Farm Real Estate Market Highlights Report 2016-2017.

How Will The Farm be Managed?
Options for keeping

• Estimate what the potential income might be
  • Either from farming it yourself
    • Does it fit the current operation? (next generation)
  • Having it custom farmed
    • Some are having it custom farmed for a % of the production – to motivate farmer to produce
  • From rental
    • Crop share rent
    • Cash rent
    • Flexible cash rent

Professional Farm Manager

• Consider use if Custom Farming or Renting
• Take care of managing the asset – especially valuable for absentee owners
• Charge between 6-12% of the rental rate as their fee for management (less on straight cash rent, more on crop share rent agreements or custom farming)
  • Depends on what you are asking them to do
• In some cases, the service is very worth while
Crop Share

• Landlord and tenant share in the expense and share in the risk associated with producing the crop
• Over history a very fair way to rent
• Crop share has lost popularity
  • Landlords do not like to:
    • pay expenses
    • worry about marketing their crop

Crop Share - continued

Typical (historic) provisions
• Landlord
  • Pays for % of fertilizer, insecticide, fungicide, and herbicide
  • % of Irrigation fuel or electricity
  • % of crop insurance
  • Irrigation System ownership costs
    • (depreciation, insurance, repairs, taxes, interest)
  • Land taxes and land maintenance
Crop Share - continued

Typically
- Tenant pays for
  - % of fertilizer, insecticide, fungicide, and herbicide
  - % of crop insurance
  - All seed
  - All field operations
  - Transportation of landlord’s share of crop to designated location

Options for keeping - continued

- Cash leases – two types – straight cash leases and flexible cash leases
  - Straight lease means that you get paid XX dollars per acre for the lease per year
  - Flexible lease means you that the actual lease is flexed by some variable – usually price and/or yield
    - Consider putting lower and upper limits on the ‘flex’
Questions?
Written Leases and Lease Provisions

If you have a hand shake or verbal agreement

• PLEASE change to written lease
• Lease termination on farmland
  • By September 1
  • Assumes all leases start on 3/1 – 6 month notice is required
  • Use registered written letter to terminate
• Lease termination on pasture
  • Not defined – because typical pasture leases end at end of grazing season
Written Lease – Must Have’s

- Date of entry and expiration
- Names and addresses of parties involved
- Legal description of the property to be leased
  - If multiple rates, have legal description of each partition
- Signatures
- What constitutes a “legal” written lease in Nebraska?
Farmland lease - good lease provisions

- Consider clause to protect against mining of the soil
- Consider water allocation clause if needed
- Define who is paying for
  - Repairs
  - Non crop acre weed or tree control
  - Upkeep of buildings, roads, farmsteads, etc.
- Set dates for payments – usually ½ and ½ (spring and fall)

Critical Issues

- Hunting rights
  - Allow or retain – must specify
- Stover
  - Allow harvest or retain
  - If harvest, how often
  - Will the rent increase with use
- Grazing
  - Allow, when, how many, animal/fencing needs
- Easements
  - Do they exist and in what terms
Summation

- Land ownership is rewarding – if you put in the work
- Know your investment and what you expect the investment to do for you
- Get help when you need it
- Get training – need to know what you don’t know
- Family communications can be challenging, but never ignored
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