

## The farmer's interests:

- *Long-term security of tenure.* Developing a farm is a long-term endeavor. Farmers want to be able to harvest and enjoy the fruits of their labor, not only from season to season but over a lifetime. They do not want to invest years of labor, care, and money in farms where they may be evicted by a landlord who decides to “convert the property” to a different use. A 99-year, renewable ground lease can give a farmer the same protection from displacement as ownership provides. Even if the lessor decides to sell the land, the new owner is bound by the same lease, and the farmer will have the same rights.
- *The opportunity to build equity.* Farmers investing their labor, care, and money in developing a farm want to receive a reasonable return on this investment. They do not want the value they create to be captured by the landlord. Long-term ground leases normally allow a farmer to own – and within certain limits to sell – houses, barns, and other improvements on the leased land. These leases may also recognize the farmer's right to build equity *in* the land through such things as improvements in drainage and soil fertility or the development of perennial crops.
- *Legacy.* Small farms remain one of the few kinds of enterprises that commonly span more than a generation. Farmers who spend their lifetimes developing their farms have a strong interest in being able to leave what they've developed to their children. Children who have grown up working on a farm have an interest in what they've helped to create. Long-term ground leases normally allow farmers to bequeath what they own – the improvements and their leasehold interest in the land – to children (or other heirs), just as farmers who own their land are able to do.
- *Freedom from undue interference; opportunity to make a living.* Independence is an important motivation for most farmers who do not want to be told that they can do *only* this or *only* that with their land. Farmers *need* a reasonable degree of freedom to do what works best agriculturally and economically, and, sometimes, to try new things. Long-term ground leases place certain limits on the farmer's use of the land, but these limits do not need to interfere with what the farmers would do with the land on their own.
- *Stewardship.* Farmers – especially those who live and work with a particular piece of land year in and year out – are very concerned that the land under their stewardship be treated well. They want the land's productivity to be preserved, and want it used only in ways that do not damage the environment. In Equity Trust's experience, the farmer-lessee (more often than the land trust-lessor) insists that the ground lease prohibit environmentally damaging practices. Farmers who care for their land do not want those who succeed them to abuse what they've cared for.

### **The interests of the land stewardship organization:**

- *Preventing development.* Conservation land trusts and agricultural land trusts have a fundamental concern with preventing farm and forest lands from being developed for residential or commercial purposes. The long-term ground lease provides a practical way for such stewardship organizations to restrict such development while allowing agriculture and sustainable forestry. The lease can be tailored to each situation so that the development of dwellings or other farm structures can be permitted, while assuring that the farm as a whole is not lost to agriculture.
- *Preserving and protecting the environment.* Stewardship organizations are concerned not only with preserving agricultural land but seeing that the farming doesn't negatively effect the natural environment. The long-term ground lease can prohibit or restrict practices that result in the erosion or degradation of soil, the pollution of air or water, and undue interference with local communities of plants, animals, or people. Leases may be tailored to specific parcels of land. For instance, agricultural use might be prohibited altogether in designated wetlands and other ecologically sensitive areas, while a wide range of agricultural uses may be permitted on the rest of the parcel.
- *Preserving affordable access for small farmers.* Some stewardship institutions also want to see that farmland continues to be affordable to farmers who want to use it actively, themselves, for agricultural purposes in the future. If farms come to be owned by – and are only affordable for – affluent non-farmers, the purposes of such institutions are not fully achieved. (Even if these non-farmers arrange to have meadows mowed or to have cropland used by neighboring farmers.) The long-term ground lease can preserve access for small farmers in two ways: it can place restrictions on the transfer of the lease and lessee-owned improvements to new lessees; it can also require a certain level of agricultural activity by lessees.
- *Creating a workable arrangement for small farmers.* Although stewardship institutions typically have an interest in restricting agricultural use in certain ways, they also have an interest in seeing that the restrictions don't make it overly difficult for farmers to make a living on the land. If it is a goal to preserve farmland for farming, restrictions that do not allow farming on an economically viable basis are self-defeating. Drafting a ground lease involves the effort to find terms that, though perhaps not ideal from the point of view of either party, will accomplish the basic goals of both farmers and stewardship institutions.

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