



Gaining ground for farmers

Land
Access
Project

Phase Two

FARM SUCCESSION ADVISING

~

AN ATTORNEY TRAINING COMPENDIUM

© 2018 [Land For Good](#), Inc.



United States
Department of
Agriculture

National Institute
of Food and
Agriculture

The Land Access Project, Phase 2 is funded by the USDA National Institute of Food and Agriculture through its Beginning Farmer and Rancher Development Program, Grant #2015-70017-23900 (2015-2018).

INTRODUCTION

Background and purpose

Land For Good's Land Access Project (LAP) is a comprehensive multi-state project to address the farmland access challenges for New England's beginning farmers. LAP Phase Two (LAP2, 2015-2018) was a collaborative effort among farm service providers from the six New England states, supported in part by funds from USDA's Beginning Farmer and Rancher Development Program.

Among beginning (and other) farmers' biggest challenges is accessing land, including land and farms in the hands of older farmers. Therefore, how those farmers transition their farms to the next generation (family or unrelated) is of utmost importance.

One objective of the LAP2 Task Force on Succession and Transfer Assistance was to expand our region's professional capacity to deliver succession planning assistance. To this end, the Task Force organized a two-day training for farm service providers. "**A Seminar on Generational Farm Transfer for Lawyers and other Farm Service Providers**," was held in May, 2017 in Manchester, NH.

The seminar drew over 60 attorneys, land trust staff, Extension personnel, consultants, field staff and financial advisors. The agenda included several sessions aimed specifically at new lawyers and law students interested in this practice area. The seminar also provided opportunities to foster mentoring relationships between new and more experienced legal practitioners.

The purpose of this compendium is to provide experienced attorneys as well as those new to farm succession planning with solid legal background material and technical tools to use in assisting farmer clients to develop their succession plans. Attorneys play an indispensable role as part of farmers' succession planning team. Farm succession planning has unique characteristics and challenges. Attorneys who include farm succession planning in their professional portfolio and who make a point of learning the particulars are highly sought after throughout New England.

How to use this compendium

The materials included in this online compendium contain the bulk of the training materials that were presented at the training. Some are in narrative form, others in outline. The seminar and the materials presented here cover many of the technical topics that arise in a typical farm transfer case: business planning; estate planning; Medicaid planning; land conservation; and other land access tools.

The Table of Contents allows you to jump to the various sections of the compendium. Numerous appendices providing sample documents, additional resources and reference material are included in each section. These too are linked both in the Table of Contents and in the text of the compendium.

In some sections, state-specific statutes and other references are broken out. These are current as of the date of release of this compendium. As always, readers should check for updates and changes to laws and regulations specific to each state.

Farm Succession Planning: a Team Approach

Farm succession planning is complex. Very few farmers can execute a successful transfer on their own. Most often it takes a team of advisors to guide and support farm families through the planning process. *Attorneys are essential players on that team.* Financial advisors are necessary, too. Insurance agents, business planning consultants, conservation professionals, retirement planners, appraisers, family facilitators, and health care specialists may be part of the team. A team approach assures coordination, efficiency, and sharing of expertise that result in optimal service to the farm family.

For more guidance on the team approach, see Land For Good’s “[A Team Approach to Farm Transfer Planning](#).” Check out the [Farm Transfer Network of New England](#), too. Add your services to the roster of providers and use the network to build or join succession advising teams in your state.

Additional Resources

If you are new to the farm advising or to agricultural law in general, or you seek more information and connection, the following list of meetings, listservs, and resources on agricultural law may be useful to you.

Farm Transfer Online Resources

- [A Team Approach to Farm Transfer Planning Assistance](#) (Land For Good, 2013)
- Land For Good’s [Toolbox for Educators and Advisors](#)
- University of Vermont Farm Transfer [Resources](#)
- The Farm Transfer Network of New England [Resources](#)
- [Farm Commons](#)

Gatherings and Trainings

- Northeast Organic Farming Association (NOFA):state winter conferences
- NOFA summer conference, MA
- MOFGA Common Ground Fair, ME
- Harvard Food Law & Policy Clinic Food Justice annual conference
- Slow Money gatherings
- State Extension trainings
- USDA webinars
- North American Food Systems Network Good Food Talk Webinar series
- American Agricultural Lawyers Association Annual Meeting
- National Farm Viability [Conference](#)
- NESAWG It Takes A Region [Conference](#)

Broad overview reference materials for other areas of agricultural law

- The National Agricultural Law Center, particularly its Congressional Research Service Reports indexed by subject <http://nationalaglawcenter.org/crs/>
- Farmers' Guide to Labor law exemptions
- Farm-specific Immigration law
- Farmer's Guide to Environmental Law
- IRS 2016 [Farmer's Tax Guide](#)
- UVM New Farmer [Webinars](#)
- National Sustainable Agriculture Coalition [Resources](#)
 - Grassroots Guide to the Farm Bill
 - FSMA [Guide](#)
- Conservation Law Foundation's Legal Food Hub
- Harvard Food Law & Policy Clinic
- Vermont Law School Center for Agriculture & Food Systems
- ABA Electronic Library (free with membership)
- Text: "Food, Farming & Sustainability" by Susan Schneider
- "Food Labeling" by Neal Fortin
- "Food, Agriculture and Environmental Law" by Angelo, Czarnezki and Eubanks

Listservs & Newsletters

- Comfood (Tufts)
- Comfood Jobs
- Farm Succession Advisers email list
- National Young Farmers Coalition
- National Sustainable Agriculture Coalition
- Northeast Organic Farming Association
- New England Farmers Union
- Land For Good

Acknowledgements

Many thanks to the CLE planning committee that developed the agenda, identified presenters, secured CLE credits in their respective states, and presented at the training:

- Beth Boepple, Esq. (NH)
- Rebecca Brown, Ammonoosuc Land Trust (NH)
- Richard Cavanagh, Esq. (MA)
- William Dakin, Esq. (CT)
- Paul Dillon, Esq. (ME)
- Rupert Friday, Rhode Island Land Trust (RI)
- Emma Hempstead, Esq.
- Annette Higby, Esq. and Task Force Leader (VT)
- Annie Lemelin, Conservation Law Foundation
- Kathy Ruhf, Land For Good

Thanks to these additional training presenters:

- Stacy Burnstein, Intervale Center (VT)
- Mark Cannella, Farm Business Specialist, UVM
- Rebecca Fletcher, Equity Trust (MA)
- Mike Ghia, Land for Good (VT)
- Jon Jaffe, Farm Credit East (MA)
- Mike Moloney, Yankee Farm Credit (VT)
- LouAnna Perkins, Legal Counsel, Maine Farmland Trust (ME)
- Richard Peterson, Legal Counsel, Vermont Land Trust (VT)
- Jon Ramsay, Vermont Land Trust (VT)