

GROUND LEASE MODEL



- Farmer owns buildings
- Farmer owns business
- Land trust owns land, holds OPAV on buildings
- Farmer holds 99-year ground lease w/ farming requirements & affordability restriction on buildings
- Can layer w/ conservation easement

What can we achieve with it?

- Security of tenure
 - Build place-based business
 - Secure financing
 - Invest in land/buildings
- Farmer equity
- Community benefits
 - Commercial food production
 - Good stewardship
- Helps farmers afford the farm



Why protect housing w/ farm?

- Sidestep a scenario where your farmer is commuting
- Affordable housing is key to farm's economic viability
- Affordable home ownership helps farmer build equity
- Encourage that property remain stand-alone farm



What ground lease elements can support affordability?

- Protection of a farmhouse
- Community purchase of the land via tax-deductible gifts
- Initial pricing of buildings
- Restrictions on building's resale
- Owner occupancy requirement
- Limit on home's size
- A replacement reserve fund



Key Benefits for Land Trust



- Farmer shoulders most of the responsibilities for the farm
- Can be both more prescriptive & more flexible
- Land trust retains strong position legally
- On-going lease fee is income
- Visibility

Active Farming Requirements

- Who is responsible for fulfilling this requirement?
- Agricultural income requirement
- Ground lease can include limitations on type of agriculture



Caretaker Farm

- Challenges faced by Sam & Elizabeth
- Challenges faced by the community
- Challenges faced by Don & Bridget



Ownership Structure

- WRLF owns the land
- The farmers own the buildings
- MA Dept Ag Resources holds APR
- 99-Year Ground Lease:
 - Lessor: WRLF
 - Lessee: Don & Bridget, Farmers
- WRLF holds OPAV on the buildings



Achieving Affordability

Caretaker Farm, Williamstown, MA

Unrestricted value: \$1,100,000
Bargain sale price: \$679,000*



APR (cons. easement): \$252,000
Local land trust: \$50,000
Local CPA funds: \$50,000
Capital campaign: \$200,000
Incoming farmers: \$177,000

*while retaining ownership in a home subject to a ground lease



How is “Agricultural Value” determined?

- Typically determined by as-restricted market appraisal
Appraising for purchase price and ground lease value
- Can use a different resale formula (appraisal-based, index, fixed-rate, hybrid)
- Can use different formula for farmhouse/rest of farm

When could existing CR or APR pose a challenge for a ground lease project?

If easement:

- Limits lease length permitted, or holder considers long-term lease a conveyance
- Includes an OPAV triggered by non-exempt transfer & land trust's purchase of farm will trigger it
- Restricts subdivision & holder considers sale of buildings subject to ground lease to constitute subdivision



Simple Gifts Farm Ownership Structure

- NACF owns the land, stewards farm's replacement reserve fund
- Simple Gifts Farm owns the farmhouse & a leasehold interest
- MA Dept Ag Resources holds APR
- 99-Year Ground Lease:
Lessor: NACF
Lessee: Simple Gifts Farm
- NACF holds OPAV on the farmhouse and leasehold interest



Simple Gifts Farm



34 acres purchased by NACF: \$1,200,000

Sale of 3 house lots: \$300,000

APR: \$360,000

(10% of APR--\$36,000---CPA funds)

Owner-financed principal forgiven: \$60,000

Community capital campaign: \$415,000

Farmers' purchase of buildings: \$64,500

Monitoring active farming & owner occupancy requirements

- Typically involves:
 - Annual site visit; and
 - Review farmer's income tax return; and/or
 - Periodic report from farmer; and/or
 - May include periodic review of:
 - Organic certification
 - Forest management plan
 - Farmer's marketing plan or
 - Restoration or management plan for part of land



Additional Monitoring Practices



- Require farmer submit a proposal for any proposed building on site
- Require farmer's mortgage holder provide notice of any default
- Require insurance company report any cancellations, or failure to pay
- Periodically review the property's title
- Ensure farmer/lessee's compliance with any easement on the property



Enforcement

- Strong position legally when LT owns land/ability to evict
- Right to raise ground lease fee if lessee out of compliance
- When the OPAV is triggered
 - Repeated violation of lease leading to eviction
 - Intention to transfer
 - LT only required to purchase back improvements in an eviction or at the end of the lease term
 - LT can assign OPAV to a farmer or can buy and re-sell





Transfers

- Current farmer typically identifies new farmer
- Land trust approves prospective farmer
- If current farmer can't identify an appropriate buyer, land trust does
- New farmer signs a new 99-year lease with LT and purchases farmhouse and buildings from retiring farmer

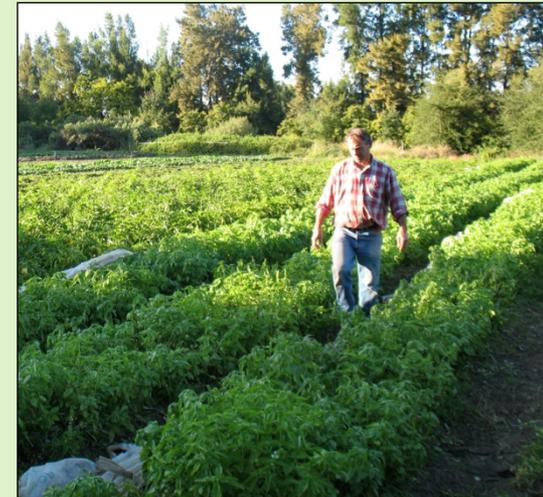
In ground lease model, who typically pays the taxes and insurance?

- Farmer typically responsible for taxes for land
- Farm includes LT on policy as additional insured
- LTA has insurance policies for LTs with events
- LT should carry insurance to cover volunteers



Stewardship Fund

- Should be greater than required by LTA Accreditation Commission
- WRLF says lease fee covers monitoring costs, not cost of any potential litigation
- Stewardship funds can be raised separately, or as part of capital campaign



Northampton Community Farm

Northampton, MA



- Nonprofit owned
- MA APR easement
- Multiple farming activities
- 5 leases
- 4 farm businesses
- Community gardens
- Farm Education Collaborative runs programs

Northampton Community Farm



180 acres sold to TPL for: \$2,460,000

TPL sold City 35-acre corridor: \$236,500

24 acres playing fields to City: \$560,000

APR secured on 121 acres: \$1,135,000

(10% of APR--\$113,500---CPA funds)

121 acres sold to GFN: \$585,000

Community capital campaign: \$550,000

City's prepaid garden lease: \$94,000



Farmland Conservation & Farm Transfer

