FARMLAND FAMILY FEUDS

A Practical Panel Discussion About How to Help Your Clients Get Through Them or Avoid Them Altogether

Agricultural Law Section Meeting—October 4, 2013

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Crop Production

High land prices are straining family ties

By ROD SWOBODA

SOARING land values the last few years have made farms

HIGH ANXIETY: The huge rise in the ...ue of farmland is causing serious ...nts in some families. ...nsion and lack

Part of the increased interest is being driven by what's happening in Washington, D.C., and part is because farm families have discovered they are no longer up in the farm ownership forever; they want to get their share of the money out. Some, of course, would like to stay in the farming business.

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No Land Crash Ahead?

Real Estate Pause Only Temporary

Marcia Zarley Taylor DTN Executive Editor

Mon Sep 30, 2013 10:42 AM CDT

OMAHA (DTN) -- Reports of farmland's demise may be a premature, a growing number of mortgage lenders and appraisers say.

Since late 2012, Federal Reserve farmland surveys have sent mixed signals throughout real estate circles, with land in southern Iowa plunging 9% between April and July while other regions showed modest gains for the quarter. Irrigated farms in Kansas and the mountain states sizzled with 30% or better annual gains at mid-year, according to the most recent Kansas City Federal Reserve report.

While farmland appreciation is slowing, ag real estate hasn't yet retreated from its all-time highs and may have more time to run, points out Doug Stark, CEO of Omaha-based Farm Credit Services of America, which serves 60,000 farm borrowers in Iowa, Nebraska, South Dakota and Wyoming.

In fact, "farmers and investors could be surprised by a post-harvest rally later this year," Stark said.

Given massive uncertainty in U.S. agriculture -- a stalled farm bill, erratic yields on corn and soybeans and potential shifts on ethanol policy -- farmers put major decisions like land and equipment purchases on hold starting last summer, Stark believes.

Some Midwesterners will be challenged as corn prices dip below their average $ land rent), he said, but it would take at least two seasons of low crop farmer psychology very much. He doubts many operators will margins shrink. "It's just too hard to acquire new la

That's the case in south-central Minn negotiations have seen "virt rents even though rents stab

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Common Problems:

- Old and outdated estate plans that do not reflect current circumstances.
  - C-Corporation never converted to S-Corporation
  - Division of land in kind resulting in nonsensical configurations
  - Failure to adjust to new land values
- Focus on taxation avoidance at the expense of common-sense succession planning.
- Inertia: Failed to act when Dad and Mom were alive.
- No viable exit strategy for heirs.

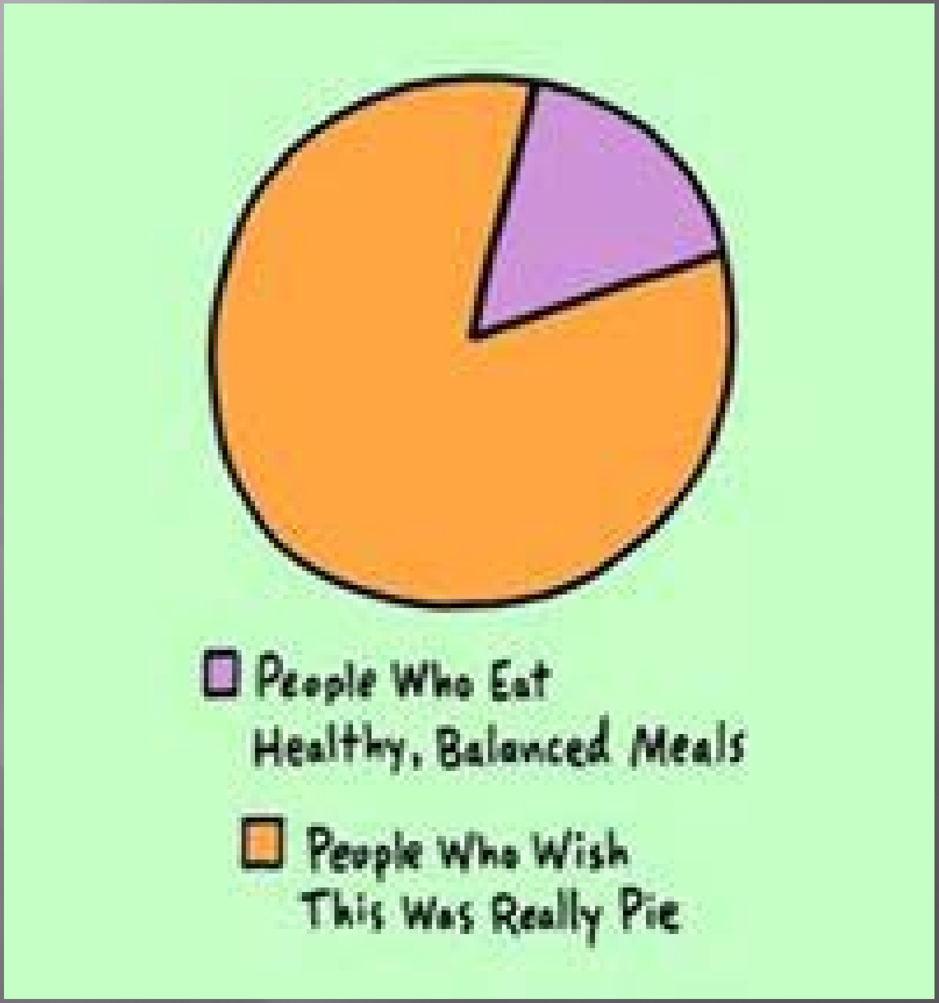
Common Problems:

Problems With The "Equal is Fair" Approach:

- Fails to protect "THE FARMER"
- Ranch or Farm given to heirs who neither understand it nor care about it
- Reflects failure to communicate a direction and a plan
- GREED: "It's my money and I want it now" mentality

There will often be at least one “Stinker” in the bunch….

I Just Want My Piece of the Pie!



Real World Examples

More Examples

“Equal Is Fair?”

Dad dies suddenly at age 65, leaving all of his interest in the farm property to Mom. Mom is not engaged in the operation of the farm and doesn’t want to be. They have four children, one of whom has farmed with Dad for over 20 years. Besides emotional attachment to the land, and the fleeting “wannabe a farmer” moments, the other three siblings are otherwise not involved or interested in the farm.

Mom is conflicted about what to do. She has alternative thoughts:

- Just leave everything to the four kids in equal shares, because that’s fair, and they’ll all get along.” OR
- “My goal is to perpetuate this farm by making sure that my son, The Farmer, gets the best chance that he can to carry on the family farming operation.” OR
- “I’m selling the whole thing to the highest bidder as soon as I can because this farm killed Dad and I’ll be damned if I’ll watch it kill my son.”

More Examples

"Mom Always Liked You Better."

Same as above, but Mom agonizes for years about what to do, changing her mind several times. At some point later in life, her health deteriorates, confusion or dementia sets in, and one or more of the siblings convinces her that she should change her estate plan again because:

- "The Farmer is taking advantage of you by paying you below market rents, wasting your assets, not taking care of you the way I/we do, etc., so show us that you love us more than that sidewinder...."

- "The way things have changed in value, don't you feel guilty for giving The Farmer more than his fair share?" OR

- "Since he is already in his 60's, you need to cut The Farmer out and instead rent/give/sell the land to nephew or grandson so that he can get started in farming."

More Examples

"Now What Do We Do?"

Of the four heirs to Mom's estate, none of them are going to be a farmer and they all live in the big city. In typical equal is fair fashion, Mom just leaves it to all four as tenants in common.

- The four heirs communicate and cooperate with each other and eventually determine that, except for "the Home Place," they should sell off the rest of the farm land and take advantage of the current market conditions. AND
- For mostly sentimental reasons, they all want to work together to keep the 80 acres that consists of "the Home Place," knowing that this may not be the best arrangement for the next generation.
- How would you advise them to proceed?

QUESTIONS?