Vermont Land Trust
CONSERVING LAND FOR THE FUTURE OF VERMONT

An Example of a Sale of a Farm Restricted by an Option to Purchase at Agricultural Value

Many of the Vermont Land Trust's (VLT) farmland conservation easements now include an "Option to Purchase at Agricultural Value" (OPAV). This is a legal tool used to keep land affordable for farmers with commercial agricultural operations and to discourage conversion of good farmland into 'estate'-type properties.

The OPAV requires that VLT be notified when the property is under contract to be sold. Further, it gives VLT and/or other easement co-holders (e.g. Agency of Agriculture, Vermont Housing and Conservation Board) the opportunity to purchase the conserved property for its agricultural value and resell it in order to keep it in active production. The OPAV can only be exercised when the farm is under sales contract to a buyer who is not a commercial farmer or family member. In most situations, VLT must waive its OPAV before a sale can occur. The OPAV is perpetual and applies to all future owners of the conserved property.

Following is a hypothetical example based on our experience exercising the OPAV. While the couple in the example still profited from the sale, the price paid to the sellers by VLT was lower than the best offer, which came from a non-farming family. In this example, as in real life, the OPAV ensured that good agricultural land would remain affordable. It also allowed VLT to stay true to our conservation goal of keeping farmland in active agricultural use.

The Original Sale and Conservation of the Farm

A 400-acre former dairy farm in northern Vermont had been for sale for several years when, in 2004, the long-time owner agreed to sell to a young couple who wanted to buy a farm and move their dairy operation from rented facilities in Windsor County. The buyers contacted VLT looking for assistance to make the property more affordable by selling a conservation easement with an OPAV.

VLT and the potential buyers had the farm appraised. The full value at that time was $400,000 (the same as the contracted purchase price). The purchase was completed before the end of the year and the farm soon returned to dairy production. At the closing, the buyers simultaneously sold a conservation easement with an OPAV to VLT for the full appraised value of $165,000. The appraisal showed the agricultural value of the farm to be $235,000 ($400,000 - $165,000): this was the restricted agricultural value of the property and included the land, house, freestall barn, and other outbuildings.

The Sale of the OPAV-restricted Farm Three Years Later

Two years after buying the farm, changing family circumstances led the owners to sell the property. The cattle and equipment were sold and the farm was offered for sale. VLT had several discussions with the sellers about the OPAV and made several referrals to interested farm buyers. Unable to get the price they desired through private sale, the owners listed the farm with a local realtor and it was advertised for $575,000. Within a few months, VLT received notice by registered mail that the farm was under contract to be sold for $430,000 to a buyer who was not a "qualified farmer" as defined in the OPAV.

Although the sellers had made some improvements to the property when they reactivated the dairy operation, VLT was concerned that the contracted price was well above the farm's agricultural value. The buyer, who had no experience farming, submitted a short farm business plan to VLT showing the he intended to use the farm to raise a few horses. VLT decided to exercise its OPAV and buy the farm because the plan was not for a commercial farming operation that would make good use of the farm's resources. VLT also was aware of several dairy farmers in the area who were interested in buying the property.

The sellers and VLT agreed to hire the same appraiser that was used three years earlier. His updated numbers showed the agricultural value of the farm to be $340,000. VLT exercised its OPAV and bought the farm for that amount. A few months later, VLT sold the farm for $350,000 to another farming couple who were renting a dairy facility nearby. The $10,000 increase in the sale price reflected VLT's expenses in acquiring, holding, and transferring the farm. Some of these expenditures, such as home inspection, title work, and hazardous material assessment, helped save closing expenses for the farm buyer:

Summary of the original sale and conservation of the farm in 2004:

Original sale price of 400-acre farm	$ 400,000
VLT's purchase price of farm easement with OPAV	- 165,000
Owner's original cost of conserved farm	235,000

Summary of the sale of the OPAV-restricted farm three years later:

Realtor had a non-farmer buyer under contract for	$ 430,000
Appraised value and price that VLT paid for the farm	- 340,000
VLT's OPAV exercise reduced the sale price by	90,000

This example shows how VLT was able to use the OPAV to allow for an affordable resale of a conserved farm and provide another opportunity for a commercial farming operation to be established on the property.