

Family Farm Real Estate

Conner Voss - Sept. 2012

The decision to own a farm is the decision to embrace fulfilling work and to explore a lifetime of unique potential. As farmers, we are tasked with thinking about a lifestyle and livelihood woven together. No other person – not realtors, lenders, lawyers, family, or other farmers – can truly realize how we will grow to know the modest bit of earth we call our own. Sometimes, land gives us a feeling at first sight, and that is enough. Sometimes, it promises a certain income, security, community. Sometimes, we walk the ground a dozen times before we see. Real estate is about feelings, and people, and it is also about worth: an opinion shaped by knowledge, hopes, and priorities. There is nothing certain about farming, but buying land is a willful decision. *Before* we sign the mortgage, we are wise to ask: will the land support our expectations?

Lesson 1: Filling the File

1. Craigslist – www.craigslist.org
 - Cluttered, but a decent source of For Sale By Owner properties.
 - Search terms that we use to find property listings:
 - o Soil, Irrigation/Water Right(s), Land, Barn, Pasture. Farm(ing), (er), Livestock, “For Sale By Owner,” Organic, Cross-Fenced
2. RMLS – <http://rmls.com/RC2/UI/Home.asp>
 - Regional Multiple Listing Service
 - Good place to start for Oregon/Washington properties listed by Agents
 - Searchable database
 - Many parameters to define
 - o i.e. Price, Acreage, County(ies), Type of Property, Home Data, etc..
3. Web Soil Survey – <http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>
 - USDA, Natural Resource Conservation Service (NRCS) online visual database used to explore the soil types within a user defined area.
 - Most places in the US have been mapped in great detail - the product of many decades of soil surveys.
 - Specific soil profiles offer valuable information on soil type, class, depth, frequency of ponding, available water capacity, etc....
4. Oregon Water Resources Department – <http://www.wrd.state.or.us/>
 - Mapping Tool – <http://apps.wrd.state.or.us/apps/gis/wr/Default.htm>
 - State agency “charged with administration of the laws governing surface and ground water resources” - many siphons in the tank, so to speak.
 - In Oregon, water is a public asset. Property owners need a water right certificate to irrigate for income-production, anything over ½ acre for personal use, or to store surface water.

- Certificates are deeded with the property *upon which water is applied*.
 - A water right dictates: how much water can be used (acre ft), where it is applied, the specific points of diversion, and when the water may be diverted and/or stored.
 - For a right to remain valid, water must be “put to beneficial use” – as outlined in the certificate - once every five years.
 - Applications for new rights are lengthy and expensive. Still, we are never guaranteed favorable outcomes; water is scarce when we need it most.
 - The date a right is issued is its priority date. Oldest rights have the highest priority, and therefore are the last to be regulated during water shortages.
 - OWRD provides an online mapping tool that allows users to search for rights in a user specified area, with links to original documents.
 - Water Masters oversee water districts, and regulate during “water-limited” seasons. They are a great public resource.
6. Well Logs - http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx
- Indicate depth of well, well flow (GPM), well type/construction, and strata encountered *at time of drilling*.
 - Searchable ODWR database, with scans of original well logs.
 - Not all wells are associated with a street address, so searching is tricky.
5. County Assessors Office – tax records, assessed values, tax maps, improvements, school district, etc...
- Most databases are searchable by street address
 - Clackamas County: <http://web5.co.clackamas.or.us/taxmap/>
 - Marion County: <http://apps.co.marion.or.us/PropertyRecords/PropertySearch.aspx>
 - Linn County: <http://www.co.linn.or.us/propertywebquerypublic/MainQueryPage.aspx?QueryMode=&Query>
 - Yamhill County: <http://www.co.yamhill.or.us/gis/gis.asp>
 - Polk County: <http://www.assess.co.polk.ia.us/web/inven/query/queryAll.html>
 - Washington County: <http://washims.co.washington.or.us/InterMap/>
7. Historic Aerial Photos – USGS Explorer - <http://earthexplorer.usgs.gov/>
- Insight into past land-use patterns, farming practices, land management, and natural areas.
 - Search by address, and then select single frame aerials.
8. USGS Topographical Maps – searchable by address, downloadable <http://nationalmap.gov/ustopo/index.html>
9. Google Satellite Maps – www.maps.google.com

- Provides a relatively reliable aerial view to which we compare all other mapping results (water rights, soils, historic photos).
10. Oregon Hazard Info - Flood Maps
<http://oe.oregonexplorer.info/hazards/HazardsReporter/>
 11. Zillow – Listing History - http://www.zillow.com/homes/for_sale/
 - Search by listing address
 - Scroll down for price and listing history
 12. iFarm - www.ifarmoregon.org
 - “A land and resource connection service with an online database that will help us grow our own next generation of family farmers.”
 - Developed by Friends of Family Farmers
 - Addressing the critical issue of farm succession, and a great place to look for viable farmland in transition.
 13. People & Community
 - Neighbors – help/support, equipment, trading, friendships...
 - Local gathering spots – message boards, community centers, pubs, cafes - provide a sense for community culture and possible customers, employees, off-farm jobs, recreation.
 - Local farmers market – potential competition, opportunity, collaboration
 - Other local resources- tractor repair, hardware store, irrigation supply...

Lesson 2: Approaching the Property

1. Calling the Listing Agent
 - Make sure it is actually the listing agent you are calling, and not a multiple listing. Any shared listing should indicate the agent representing the property, usually by means of a phrase such as; “This listing courtesy of Jane Doe from Real Town Real Estate.”
 - Listing Agents should have a relationship with their clients (Sellers)... unless it is a bank owned property, in which case getting detailed information about the property can be close to impossible. As a Buyer, your perception of the Listing Agent’s knowledge of the property, and his/her ability to articulate answers to your questions, are excellent first indicators of competence. It will also give you a feel for the situation (i.e is it emotionally charged, are they motivated Sellers, is the property well taken care of, what is the listing history, have they had trouble selling?). This first impression is important when considering if you want to work directly with the Listing Agent, or if you’d rather find a Buyer’s Agent to represent your interests.
 - *“Do you have some time to answer a few questions? If not, please tell me the best time to contact you so we can discuss this property.”* Give the listing agent your name and email, and say that you are conducting preliminary research on

properties before committing to an agency relationship. *“Once we have a file started, and our initial questions are answered, we’ll decide if we want to make an appointment to see the property. At that time, we’ll either contact you directly, or you’ll hear from our Buyer’s Agent.”* This is also a good time to ask if the Listing Agent is comfortable with “Dual Limited Disclosure Agency,” or if there is an associate to whom he/she refers Buyers.

- Some questions to ask:
 - How long has the property been on the market?
 - What is the pricing history?
 - Land/Improvement ratio?
 - What is the condition of the infrastructure?
 - Why are the current owners selling?
 - Is the property in an estate? If so, how many family members are involved? Who is the main contact, and are they motivated to sell?
 - Has an appraisal been conducted in the past 5 years?
 - If so, would you mind sharing the results?
 - Are there existing water rights?
 - If so, has the land been irrigated recently?
 - If so, is there any irrigation infrastructure in place?
 - How is the property being used? How has it been used? Currently existing leases?
 - What is the condition of the home? When was it built? Any remodeling? Financeable?
 - If it’s on a waterway/in a valley, is there a history of flooding?
 - Are there any additional dwellings on the property?
 - If so, are they permitted?
 - Will the sellers consider an owner contract?
 - If so, have they discussed terms? What are they?
 - Are the owners willing to talk with potential Buyers about the property?
 - If we had an accepted offer, what is the Seller’s moving timeline?
 - Easements? Shared roads, wells...
 - Water and utilities?

2. Visiting the Property

- If at all possible, TALK TO THE OWNER(s) – often the best indicators of a property’s current challenges and future potential.
- Things to look for when visiting a property
 - Standing water, low spots, slope, evidence of erosion, gullies
 - Functional infrastructure – barns, fencing, storage sheds, etc.
 - Invasive species/weed pressure
 - Water damage and/or intrusion into home and/or outbuildings
 - Irrigation infrastructure – power, pump, pumping station, mainline, etc
 - Current cropping system (if any) – vigor of growth?
 - Equipment / implements on property – possible inclusions in sale?

- Actively managed land or sense of neglect?
- Environmental concerns – manure lagoons, old fuel tanks, trash piles, chemical sheds?
- If there is a creek or pond, take note of the season and the water content/quality. Seasonal flow or perennial source? Upstream pollution? Do livestock have access to the water source?
- Soil texture – excessive tillage, organic matter content, depth, hardpan (take a shovel)
- How accessible is the property? Is there a main road close by? How much traffic? Is the road noise tolerable?

3. A Few Notes About Agency Relationships

- Think about what it means for you to be “represented.”
- In Real Estate, an Agent’s foremost duty is loyalty to the client.
- Even though Seller’s/Listing Agents will gladly facilitate a transaction with the Buyer, their loyalty ultimately falls with the Seller.
- There is a relationship called Limited Disclosure Dual Agency, in which one agent (or two agents working under the same Principle Broker), represent both Buyer and Seller. The downside to Dual Agency is that it is VERY difficult for the broker(s)/agents. Loyalty lies with both parties, and so the Dual Agent cannot “fight” for you alone. Some brokers believe it is not possible to ethically practice this form of representation.
- The greatest benefit of Dual Agency is having one less person involved in the transaction. The flow of information - and the back and forth with contracts - is potentially streamlined under Dual Agency. Also, there may be more room to negotiate around commission, since it won’t be split between two offices.
- More and more, Buyers are using Buyer’s Agents to represent their interests in the transaction. This provides an additional buffer, and can be helpful in mediating emotionally charged negotiations. Also, a Buyer’s Agent who knows you and your interests is an important resource in finding properties that fit your specific needs.
- Self-representation is not for the faint of heart, un-informed, or passive. If you enjoy research, are willing to advocate for yourself, and have a good real-estate lawyer to help you draft contract language and provide guidance, then Self-representation could be beneficial.
- Agency is very situational. The best fit for one property might not work for another. When you make initial contact with the Listing Agent, let it be known that you are representing yourself until you see fit to choose an agent. Ask tons of questions, and let the agent demonstrate his/her style and/or aptitude. Ask about Dual Agency in his/her office.
- If the property is listed with an agent, you will generally need an agent present to visit the property. As a rule, agents are less likely to make time for you if they don’t understand your motives. Be clear/explicit in your intention/approach, and it will come back in spades.

- Don't let listing agents pressure you into a relationship, either with them, or with somebody else in their office. You are free to inquire about a property without agency representation, and you may also ask for documents/records. Agents, by law, must disclose material facts (known to them).
- If you've decided to make an offer, and want to feel confident that someone holds your interest as a priority, don't move forward with the Listing Agent(s) unless you've discussed Limited Disclosure Dual Agency.
- You are *always* free to find somebody else. Breaking up with an agent can be hard, but sometimes it is necessary.

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