



Resale of Protected Farm Properties

Maine Farmland Trust (MFT) occasionally buys a farm, protects it with an agricultural conservation easement, and then re-sells it. When selling any such property, whether through its FarmLink program or its real estate brokerage (Maine Farms Realty), MFT follows the policies outlined below.

Pricing

MFT strives to re-sell farms at affordable prices, but there is a limit to how low it can price farms. For one thing, MFT is legally prevented from selling a property for less than its fair market value. For another, MFT must attempt to recover many of its costs—or MFT will not be in a financial position to continue this kind of work.

Pricing decisions are based on the estimated value of the property as protected land, as well as the costs that are associated with the protection process. Where practical, MFT will set a price that is often similar to the net cost if a farmer had purchased a property and then sold an easement on that property. In other words, the net cost will often approximate the market price of a property (as unprotected land) MINUS the easement value PLUS many of the costs that would be incurred by a landowner (e.g., appraisal, survey, taxes, debt service, stewardship).

In setting the price, MFT seldom recovers all of its costs. In fact, MFT loses money on most projects, once all costs are factored in. (The only time where MFT ever makes money is where the property was either given to MFT or sold to MFT at below market value, and the donor/seller intended that benefit to accrue to MFT.)

MFT will share project budgets with prospective buyers upon request. MFT will not share detailed appraisals, but will provide a prospective buyer with an appraisal value, where relevant to a possible purchasing decision.

MFT's re-sale price is the price that MFT believes the farm should sell for. MFT does NOT set the price higher than the expected actual sale price. In other words: **The price MFT sets is firm.**

Listing a Property for Sale

Generally, MFT will list a property it wishes to sell through its real estate brokerage, Maine Farms Realty. Yet at times, MFT may decide that it does not want to list a property with Maine Farm Realty (or any other Realtor), but instead, simply list the property for sale through its FarmLink program. Regardless of which route MFT follows, the property is officially “on the market” and prospective buyers can begin to make offers.

However, there are other times where MFT is not ready to list a property (usually—though not always—because it hasn't yet done enough research to determine pricing), yet wants to alert the public to the property that will soon come on the market. In such instances, MFT may use FarmLink to “announce an opportunity” in a way that is not an official listing. In these instances, MFT is not yet open to prospective buyers making offers.

Once MFT officially lists a property for sale, it will generally wait at least 15 days (and sometimes longer) before accepting an offer. This is because MFT wants to see if there are multiple parties interested in a property.

Choosing a Buyer

MFT wants to sell farm properties to people who are serious about having the land actively farmed and who have a good chance of running (or overseeing) a successful farm operation. Thus, MFT is highly selective in deciding who it will sell to. MFT does not sell to the party who offers the most money (indeed, since “MFT’s price is firm”), but to the party who it feels is best suited to a property (as determined by criteria outlined below). To help MFT make an informed decision, a prospective buyer is asked to provide certain information, some of which is not customarily asked of prospective buyers of other properties.

Required Submissions

A prospective buyer shall submit a signed Offer that includes the following:

- Any contract terms or contingencies, including but not limited to closing date, need for any testing or inspections, or need to secure financing.
- Documentation that the buyer can pay the purchase price. This can be: a) a letter from a bank stating that it intends to lend the buyer the necessary capital; or b) a statement of the buyer’s net worth or other documents demonstrating that the buyer has the necessary financial resources. *NOTE: Where such documentation is not possible, the buyer shall provide a brief written summary of his/her plans for securing financing and also provide evidence of communication with one or more potential lender.*
- Initial earnest money equal to 1% of MFT’s asking price. *NOTE: If the Offer progresses to a signed purchase and sale agreement, MFT will in most instances require a down payment in excess of 1% of MFT’s asking price, but that level of earnest money is sufficient to accompany submission of an Offer.*

A prospective buyer shall also complete and submit a Supplemental Information Form that provides the following:

- Information regarding the buyer’s past successes in farming.
- Information regarding the buyer’s past challenges in farming. (Has the buyer ever had a farm business fail? Had a farm foreclosed on? Had a farm-related environmental violation?)
- A summary of the buyer’s farming background, detailing relevant training and work experience.
- A description of the buyer’s vision for the property, including short and long-term goals for the farm operation.
- At least three personal or professional references who can attest to the buyer’s ability to manage a farm.
- Any relevant supplemental materials (farm brochures, newsletters, press clippings, etc.).

MFT’s Decision Process

MFT will evaluate proposals according to the following criteria, using a point system:

- The prospective buyer’s willingness to pay MFT’s price.
- Degree to which the prospective buyer has the financial capacity to meet that price in a reasonable amount of time.
- Degree to which the contingencies of sale (if any) are acceptable to MFT.
- Degree to which the prospective buyer appears to have sufficient training and experience to operate (or oversee) the farming activities proposed for the property.
- Degree to which the prospective buyer’s vision for the farm is: a) well-suited to the size, soils, configuration and infrastructure of the farm; b) well-suited to the agricultural structure of the local community; and c) likely to result in a viable, long-term farm operation on the property.
- Degree to which the proposed farm operation will complement or support other farm operations.
- Degree to which the farm practices proposed for the site would not disrupt farm practices on neighboring farms (such as might occur if the farming practices proposed for the site require an existing farm to impose a setback or buffer that adversely affects operations).

- Degree to which the proposed use fits with any special conditions placed on the property. *NOTE: Conditions might be placed on the property for various reasons. For instance, MFT may have been sold or given the property with certain conditions imposed by the previous owner. Any such conditions will be disclosed in the property's marketing materials.*
- Degree to which the proposed use fits with other publicly-disclosed preferences MFT may have for the property. *NOTE: MFT may have its own idea of how it would like to see a property used. For instance, MFT might prefer to see an existing dairy farm purchased by a farmer who wants to operate a dairy farm. To the extent that MFT has any preferences for a property that it intends to factor into its decision process, MFT will disclose those preferences in the property's marketing materials.*
- Degree to which the proposed sale and use of the property is expected to enhance MFT's fundraising efforts. *NOTE: This criterion is only triggered for properties where MFT must raise funds to cover the difference between project income and expenses.*
- MFT will award additional points if the prospective buyer had been leasing this property from the previous owner (i.e., the owner from whom MFT bought the property) or if the prospective buyer has committed to continue leasing the property to the farmer who had been leasing it.
- The prospective buyer's willingness to accept the terms of any property restrictions.

MFT's goal will be to sell a property to the party that scored highest. But since no real estate deal is ever final until papers pass, MFT may at times negotiate a back-up contract with the party that scored second highest.

In any instance where MFT has scored two or more parties the same (or very close to the same), MFT may return to these parties to seek more detailed information in order to help it make a decision.

MFT's Right to Sell & Commitment to a Fair Process

As a private corporation, MFT has the legal right to sell a property to whomever it wishes. (NOTE: This would not be the case if MFT used government funds to purchase a property and those funds required a different sales process; but to date, MFT has not used any government funds to purchase a property.) However, MFT is committed to being as fair as it can be, which is why it has structured the process summarized in this document.

Grievances

Only one party can buy a property. Thus, in any instance where multiple parties are interested in a single property, some people are likely to be displeased by MFT's ultimate selection. There is not much that MFT can do about that, except try to be as fair and objective as it can be.

At times, a party may feel that MFT has not applied its selection criteria fairly, or perhaps that MFT's process or criteria need to be changed. MFT is always open to such feedback. Any such feedback should be provided in writing to MFT's executive director (currently Bill Toomey). In most instances, the executive director will then communicate with the aggrieved party to learn more, and then communicate that grievance to MFT's board. If the situation warrants it, the executive director may make recommendations for changing policies.