

Chapter 61A overview including its ramifications to a family farm estate plan and the community.

Presented as understood by John Packer

I am in no means a legal mind or an authority on 61A. I was very involved in placing our land under 61A 40 odd years ago. I have had the pleasure of many conversations with Jay Slattery, the past director of the Massachusetts Farm Bureau, he was a family farmer with a legal mind that forged the original 61A language and worked it through the legislature. I encourage anyone who would like more information or fact check what I am presenting to contact the mass farm bureau. That said my presentation to follow:

Chapter 61A was created to protect farmland from the pressures of development and the burden of real estate taxes that came with the increasing land values.

At the time it was calculated that every residential tax dollar paid required a dollar and ten cents in services. Every dollar paid on agricultural land required 10 cents in service. Therefore, the reduced tax rate on farmland was actually a financial benefit to a community.

There were many safeguards put in place to keep the land in agriculture. Some of the safeguards helped the farmer and some benefited the community.

Conveyance tax is one such safeguard. Should the land be removed from 61A agricultural land use, a conveyance tax will be charged. There is a formula to calculate this tax.

In an effort to keep families on farms there were provisions made that land could be conveyed to family members without the conveyance tax being charged.

The right of first refusal by the town is another safeguard. Anytime the land is sold for any use other than 61A agricultural the town has the right of first refusal.

This gives the community tremendous control over the future of the land. As far into the future as we can see the land will either be a family farm, or it will be whatever the community desires.

Contiguous land is also an important detail. To qualify for 61A a person needs to show a gross agricultural profit on 5 acres or more of land for two consecutive years. Once the first piece of land is in 61A any contiguous piece of land in the same ownership regardless of size can become chapter land.

What do these safeguards mean to an estate plan for a family farm?

To start with we put all our land into a family trust. Therefore, the children can have their lots set aside in the trust, thus remaining in 61A as farmland, until such time that they wish to build a home. At that point the parcel becomes their own, the parcel will pay residential real estate tax like any other home. There will however be no conveyance tax.

You will notice on the plan a long laneway that loops along the property line and back to the created road. This lane way ensures that all parcels will be physically connected to the main 61A parcel. This connection will allow tractors and animals to move from any parcel to another, it also means every parcel is contiguous. No one can predict the future all we can do is prepare for the worst case and make provisions to protect the farmland as best we can.

You will notice that there are more parcels than we have children. Janet and I hope that the farm will always be our family farm and that someday our grandchildren will build on the lots. The reality is who knows what will occur, we ourselves had a chronically ill child for almost a decade, he has since recovered. We were very very close to selling a parcel of land to get through it all.

I understand on paper this is a development that we are asking for. I also understand that when a development is asked for the community feels like there should be some things given back in return. However, this is not a standard development, this is a division of Chapter 61A land and as such the community has already been given some very valuable gifts.

If a lot were to be sold the town would receive a significant amount of tax dollars in the form of the conveyance tax, which it could use for affordable housing, the school or whatever.

The town also has the right of first refusal, the town can control the future of the land if we were to leave the farm.

Lastly, our children wish to return to the only home they have ever known. To the land they grew up on. I am having great joy watching my oldest, David, who is just out of college, tilling and planting the fields. His thrill of watching the seeds he has sown grow takes me back to the day when my dad and I first planted the land. Nathaniel just passed his exams to be a physics teacher, his goal is to teach at MVRHS, Charlotte is doing well in her social worker/psychology program and looks forward to returning home.

Janet and I are very fortunate to be able to offer a place for our children to come back and live on the island. Throughout my entire lifetime this has been my goal, to farm the land, and eventually pass it on to my children. If we did not make the choice all those years ago to make a go at farming the land and putting it in 61A our children may not have had a home to return to.