Supporting land access and farm succession with resale restrictions: A case study from New York's Hudson Valley

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Equity Trust--Farms for Farmers

National program since the mid-1990s

Helps farmers partner w/land trusts & other stewardship organizations

Facilitates projects, provides technical guidance

Works to keep farms part of the food system by protecting:

- Land
- Infrastructure
- Affordability
- Productivity

The Challenge: Farms unaffordable for farmers

- A recent National Young Farmers Coalition (NYFC) survey of over 3,500 young farmers and ranchers across the country found that affording land was their biggest challenge.
- The inability to access land was also
  - the primary barrier to the formation of new farm businesses
  - the primary reason respondents gave for leaving farming
- Between 1997-2017, USDA data shows ag land prices increased by 50 to 150% in Hudson Valley, with sharpest increases near Albany, NYC, and other urban areas whose markets farmers aim to serve.

Conservation easements are not enough

Even farms protected with a conservation easement (CE) are selling for prices well above what farmers can afford.

- In a 2013 NYFC survey of over 200 land conservation professionals, 24% of respondents nationally, and 30% of those in the northeast, reported seeing farmland protected by CEs going out of production due to non-farmer purchases

Though the farms best suited for our vegetables were protected from development by conservation easements, we discovered that we couldn't compete, because conserved farmland is open to all buyers — millionaires included.

Lindsey Lusher Shute and Benjamin Shute, Hudson Valley farmers and co-founders of the NYFC, New York Times op-ed, September 2013

Hudson Valley Farm Affordability Program

2013-2019 in 15 NY counties

Program provided:

- Technical assistance
- Low-interest bridge loans
- Funding to protect affordability
  - ➢Easement restrictions
  - ➢Shared equity ownership

Complemented existing farmland protection efforts in the region

New York's Farm Affordability Landscape 2013

- Agricultural Stewardship Association holds one CE with resale restrictions in program region (Washington Co., 2008.)
- Peconic Land Trust using resale restrictions in donated easements in eastern Long Island
- Two neighboring states using Option to Purchase at Agricultural Value (OPAV)
  - ➢Used in Massachusetts since 1994, over 600 farms protected
  - ➢Used in Vermont since 2003, over 400 farms protected

How PPR works

- Easement holder has first right to purchase for a price based on “agricultural value”
- Right triggered by proposed sale or transfer of property
- Some transfers are exempt if within resale price limits:
  - To family members
  - To “Qualified Farmers”
- Easement holder’s right to purchase may be assigned

How PPR works

- Property owner provides notice prior to any transfer, with proposed sale price, and description of exempt status or proposed transferee's experience and qualifications
- Agricultural value of property (land and infrastructure) is determined by professional appraisal
- If proposed transfer is exempt, sale goes ahead
- If transfer is not exempt, easement holder may exercise PPR and purchase property, or may waive it and allow transfer

Other CE elements that support farmer access

- PPR is sometimes combined with limits on size or number of residential buildings, or caps on their contribution to total resale price
- PPR is sometimes combined with affirmative requirement for commercial agricultural use

Inclusion of any particular element is based on landowner interest and property-specific considerations

Affordable Farms
Case 1

- 170-acre farm in upper Hudson Valley, actively farmed for over 200 years
- Property includes a house, two barns, and a cabin
- Long-time farmer-owners need to receive full value to pay for new home and retirement
- Experienced incoming farmers, with diversified CSA business, can't afford to purchase for market value

Affordable Farms
Case 1

- Bridge loan supports purchase, so retiring farmers can move on before CE funding is secured
- Sale of development rights lowers value by 56%
- PPR reduces as-restricted value by another 7% of unrestricted value; final cost is < $300,000—a price the farmers can afford
- Future farm sales will be limited to the farm's agricultural value

Affordable Farms--Case 2

- 354-acre farm in central Hudson Valley
- 4th Generation dairy farm with approximately 400 registered Holsteins
- The dairy leases an additional 800+/- acres
- Several generations of family members live on-farm
- Family goal is to ensure property remains a farm

Photo courtesy of Columbia Land Conservancy

Affordable Farms--Case 2

- Family sells conservation easement with PPR
  - Development rights valued at 56% of unrestricted land value
  - PPR increases price of CE by another 9% of unrestricted value
  - As-restricted land value is now $2400/acre, down from $6,750/acre when unrestricted
- Proceeds invested to acquire additional land.
- Sale supports on-going transfer to the next generation

Affordable Farms
Case 3

- Young farm family leased land in lower Hudson Valley where they produce meat, eggs, vegetables, and goat milk
- They sell their products through their successful farm store in NYC commuter region
- Farm owner wants to sell, but 196-acre property with large home and barns is priced over $1M


Photo courtesy of Trish Sweetman

Affordable Farms
Case 3

- In simultaneous closing, CE is sold and lessees purchase farm
- Easement includes
  - PPR
  - Affirmative farming covenant
- Development rights valued at 34% of unrestricted value
- PPR and affirmative covenant reduce the price of the farm by another 20% of original unrestricted value

Photo courtesy of Trish Sweetman

Program summary

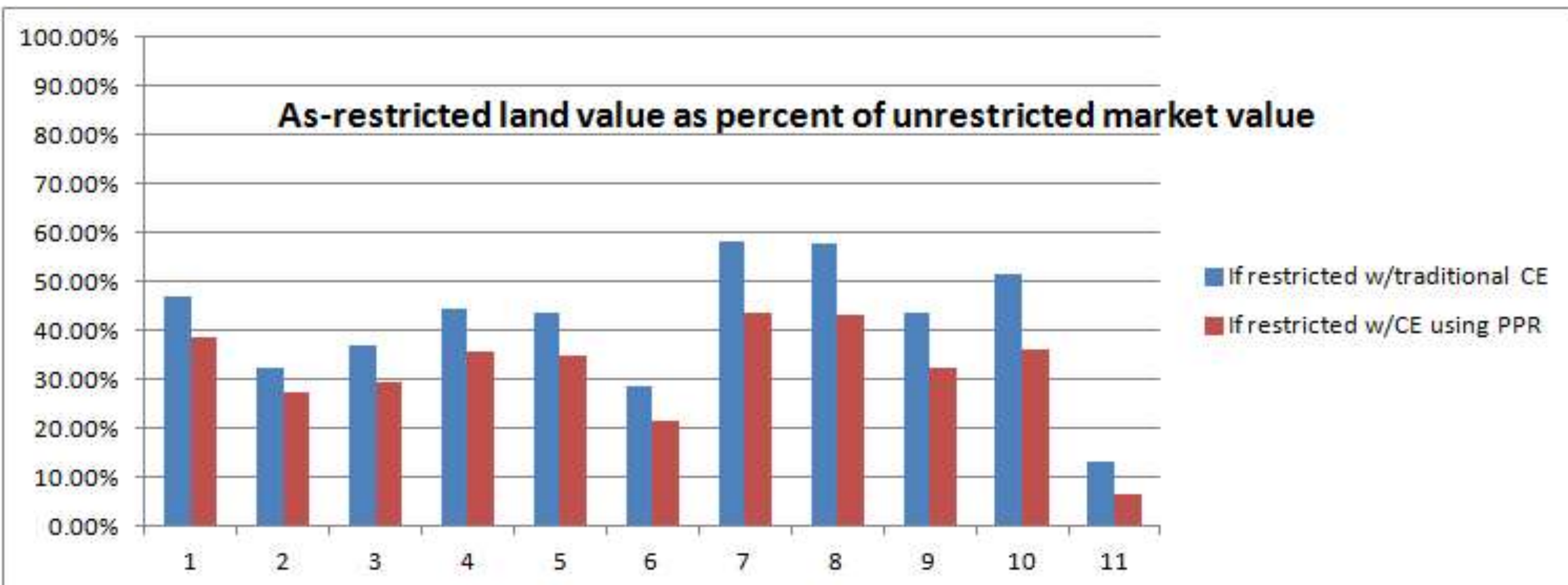
- Thirteen Hudson Valley farms totaling nearly 2000 acres protected using CE with PPR between 2015 and 2020.
  - Farms range from 20 acres to 444 acres (median 100 acres)
  - Farms include dairies, pastured meat operations, diversified vegetable production, and fruit farms
  - Farms are located in six counties
- Six different land trusts hold one or more of these easements

Role of public funding

- PPR was privately funded in most of these projects
- The majority of easements were partially funded by either the USDA Agricultural Conservation Easement Program (ACEP) or the NY Farm Protection Implementation Grant (FPIG) program
- NY’s Working Farm Protection Act, passed in 2018, made PPRs eligible for state funding

Impact on affordability and farmer access

- By capping resale price and preventing sales to non-farmers, PPR's reduced farm values by 7% to 20% of unrestricted value
- Resulting price of farms is 13% to 50% lower than if restricted only with traditional CE removing development rights
- Factors determining PPR value include location, acreage, and the type and size of any residence



Impact on affordability and farmer access

- The PPRs facilitated farmer-to-farmer sales and intergenerational transfers, helped lessees to buy land, and reduced farmer debt.
- As a permanent restriction within the CE, the PPR runs with the land and will limit all future farm sales to agricultural value
- These “working farm easements” offer strong protection against future price increases for a relatively small upfront investment