

Business Structures and Land Matters Online Session Farm Commons + UNH Extension

Small Group Activity Section

This section is time for folks to break into small groups and work through an exercise together.

Here's the scenario:

Using Leases to Stop Problems Before They Start

One day, you go to lunch with an old friend, August, and he tells you this story:

This year, I was looking for a new 2 acre plot for my market farm. I found a landowner, Bob, with a nice set up and he gave me an awesome deal- just \$100 for the whole year. I thought that would work great. Except, it didn't turn out that way. First we had a drought in July so I was irrigating all day, leaving me little time to attend to other needs. Of course, just then the well pump breaks. Bob knew the well pump was broken for three weeks now and he didn't do a thing to fix it. He also said it was is my financial responsibility and I had to pay him back for the pump replacement cost. Bob thought this is my fault because the pump isn't used to being run so much! The timing was terrible! My plants suffered without the water, production dropped, and it made it even harder for me to afford the unpredictable costs of well pump replacement.

August asks you for help. He is considering leasing Bob's land again next year, but he wants to prevent this problem. Help August by talking through these issues:

Discuss:

1. What has caused August's problems with Bob?
2. If August and Bob had thought about this potential issue ahead of time, what expectations or processes might they have created to prevent this problem?
3. Draft some language you might put in the farmland lease between August and Bob to prevent the problem in the future.

What has caused August's problems with Bob?

- The most obvious problem is that August and Bob didn't assign responsibility for well repairs ahead of time.
- Bob and August did not communicate about the well's infrastructure or capacity ahead of time.
- Because the capacity and repairs weren't discussed ahead of time, August may not be able to make the repairs himself. He has to rely on Bob, but Bob has no motivation to complete the job. Without a clear understanding of who needs to pay for the task, neither person can move forward with confidence.
- August and Bob don't have a procedure for handling conflict.
- Going farther back, Bob may not have understood the nature of vegetable production ahead of time. Bob is accustomed to alfalfa, which has much different demands in terms of soil, water, and cultivation. He may not understand the threat the lack of water is to vegetable production.
- A deeper problem might be that the low rent makes Bob feel like he's doing August a favor. It could be that Bob feels he doesn't owe August anything further. In reality, the lack of water makes Bob's generosity useless to August.

What expectations or processes might they have created to prevent this problem?

- August and Bob could have agreed that Bob is providing land and access to a specific volume or flow rate of water for \$100. If the water is a part of the lease, Bob would be responsible for timely access to the water.
- August could have offered Bob more rent in return for repairs being completed within one week. If Bob does not make essential repairs within one week, August could have the authority to arrange for repairs himself, with the cost to be deducted from August's rent.
- Or, August and Bob might have agreed to split the cost of all repairs.
- A conflict resolution committee could be convened to resolve this dispute. Conflict resolution committees are often a group of 3 or 5 individuals who agree to take in all sides of a conflict before recommending a resolution. The parties to the conflict agree to follow the resolution proposed by the committee.
- August could have prepared a short summary of his infrastructure needs for Bob ahead of time, and specifically asked Bob if his acreage could meet those needs. This might have alerted Bob to the differences between alfalfa and vegetables.
- August could insist on paying market rate for the farmland rental. This would create a more professional relationship between August and Bob, which might help Bob realize that he's working with a business owner, not doing someone a favor.