PROTECTING FARM ASSETS

Trusts and Other Estate Planning Tools

Megan Harris-Pero, Esq.
Harris-Pero Legal Counsel, PLLC
Saratoga Springs, New York
www.HPeroLegalCounsel.com
The Waiting Room
What Is the Estate Plan For?

- Make Your Own Decisions
- Prevent Family Disputes
- Retirement – Elder Long Term Care, Taxes
- Business Interests Succession
- Provide for Spouse and/or Minor Children
- Protect Family Property
- Privacy
- Protect a Special Needs Loved One
Estate Tax Planning (NY and Federal)

Succession Planning

Income Tax Planning

Long Term Care Planning

Financial Advisor

Attorney

Tax Advisor

Mediator
Basic Parts of An Estate Plan:

*Documents with Life Consequences*

- Power of Attorney
- Health Care Proxy
- Living Will

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Power of Attorney

- New York General Obligations Law § 5-1501

**Important!**
- Consider Farm Needs
- *Modifications, Initials, Broad Powers*
- Execution (notary, witnesses for SGR)
- Durable – incapacity does not terminate
- Avoid Guardianship; Last Minute Long Term Care Planning (with modifications)

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Basic Parts of an Estate Plan:

*Documents with After-Death Consequences*

- Last Will & Testament
- or
- *Intervivos* or Living Trust
  (with Pour Over Will or Companion Will)

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Without a Will

Intestate Succession

• Your plan is the State’s Plan
  • Should you pass away without a Will, your spouse will receive the first $50K and one half of your remaining (residuary) estate. The balance will be split among your children.

• EPTL § 4-1.1-4.1.6

• Consider the impact on farmers:
  • Tying up assets in court
  • Splitting the farm among non-farming heirs
Basic Parts of an Estate Plan: 

Planning for Your Family

- Minor Guardianship Designation
- Burial Designation
- Non-Probate Asset Considerations
- Out of State Property (Revocable Living Trust)

Beyond Basics:

- Business Succession Planning
- Ethical Wills
- Long-Term Care (Medicaid, Insurance, or Pay?)
Basic Estate Planning for Everyone

• Review how Property and Accounts are titled – advisors can’t plan for whole picture if we don’t have all the facts
• Check and update Wills or Living Trusts
• Durable Power of Attorney
• Health Care Proxy and Living Will

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