



Getting the Best Price Possible

Issues to Consider When Disposing of Timberlands

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A landowner selling his timberlands wants the best price with the least hassle. Watching out for certain issues during preparation for sale can drive up timberland marketability and, in turn, drive up price.

Access

Often, a large factor affecting marketability is access—any would-be purchaser of timberlands wants to know if he can get to the timber and haul it out when harvested. Non-commercial landowners may not have formal arrangements for access to and from their property. This situation is especially common when large family-owned parcels have been divided among descendants—the landowner will only have an informal arrangement, if any agreement at all, to travel across his neighbor's property. This problem can be addressed simply by reducing any oral agreements the landowner might have with his neighbors to writing. In addition to being able to cross property for access, landowners will want to assess whether industrial timber equipment can be driven across that property within the terms of any agreement with the neighbor. If an arrangement with a neighbor only contemplates a walking path, a horse trail, or a residential driveway, the written agreement should expand the easement to allow the use of logging trucks and other heavy machinery.

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Access by Others over the Neighbor's Property

Next, a landowner should consider whether other individuals have agreements to cross the neighbor's property. If a neighbor has an easement over the landowner's land, that easement will appear in the would-be purchaser's review of the title history of the property. Landowners should clear title to the property to the extent possible. If the neighbor no longer uses the easement, a landowner should ask the neighbor to execute an agreement to abandon or, at least, limit his rights. Informal agreements should be reduced to writing to document the access. Where neighbors cross a landowner's property with permission, a written agreement ensures that any prescriptive rights are foreclosed. Where unauthorized persons cross the land, a landowner should take every step within the law to see that such crossing stops.

Railroad Easements

Timberlands often remain subject to railroad easements long after the railroad stopped its use. In such instances,

landowners should seek a release of the railroad's rights. If the railroad will not release the easement for non-use or cannot release the easement because it is still in use, the landowner should obtain a containment letter signed by the railroad that documents the scope and area of the easement. In either case, whether by release or containment, a modification of the easement will increase a parcel's marketability.

General Utility Easements

In many instances, utility companies will have general easements over or under property for things like power and telephone lines or natural gas lines. Where a landowner's property is affected by such easements, he should consider obtaining a containment letter from the utility company that documents the easement's scope and the actual area of the property affected. In doing so, a narrowed easement will reflect positively in the property's value.

Legal Descriptions

One of the thorniest issues in the disposition of timberlands can be the condition of the property's legal description. Unlike more urban properties, rural properties, especially very large tracts, are surveyed infrequently. A legal description might be handed down from deed to deed, and generation to generation, without verification or clean-up. Clear, current, and legible legal descriptions describing the property to be sold can be valuable to the



landowner throughout the sale process. Landowners should inspect the legal descriptions attached to their deeds. To ensure that the description is legally valid, the landowner should plot the description on a map to ensure that every call produces a closed piece of property. If the legal description is illegible, unavailable or does not close, landowners should consider obtaining a current survey of the property, which can be used to produce an updated legal description, thereby giving a would-be purchaser more confidence in the size and location of the property he is considering.

Boundary Markings

When large parcels of land are relatively unoccupied, there is a danger that others might have prescriptive rights to portions of the property. This risk can be minimized considerably by ensuring that the boundaries to the property are clearly marked with fences or posted signs that put others on notice to the landowner's claim of ownership. A landowner considering sale of his property should drive or walk the boundaries of his property, to the extent possible, to ensure that each boundary is clearly marked, thereby short circuiting any prescriptive claims that might deter a would-be purchaser; and, to ensure that there is no prescriptive use if potential prescriptive claims are discovered,

either remove the potential claimant from the property or enter into a written agreement allowing the use in exchange for the cutting off of prescriptive rights.

Inherited Ownership

Like the access easement issues discussed above, properties inherited among family members can also create potential ownership issues. If a landowner has received his property through a family estate, he should make sure that the prior owner's will was properly probated in the county courts of the county in which the property is located, and that he has a valid executor's deed from the estate of his deceased family member. The last thing a would-be seller wants to do is to find out late in the price negotiation process that he will have to share the sale proceeds with a newly-discovered co-owner of his property.

Hunting Rights

Timberlands are often used for hunting and fishing, and landowners will lease hunting rights to an individual or groups for a nominal fee. Where such agreements are not in writing, a landowner should put them in writing to describe the hunting rights granted and the date on which such agreement will terminate. If possible, the landowner should include a provision stating that the hunting or fishing rights terminate if the property is sold so that subsequent owners may assign the rights as they see fit.

Make no mistake, the steps outlined above increase the time and monetary commitment to preparation of a property for sale; but, the hard work at the outset can be repaid handsomely in the purchase price received upon sale.

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