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Working Paper

Farmland Preservation: Agricultural Districts, Right-to-Farm Laws and Related Legislation

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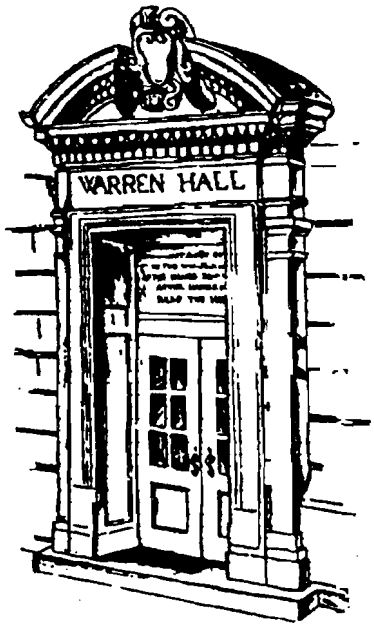

Staff Paper

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Farmland Preservation: Agricultural Districts, Right-to-Farm Laws and Related Legislation*

Nelson Bills**

Introduction

Public policy toward farmland in the US is influenced by three important features: authorities to levy annual property taxes, availability of the police power to regulate land use, and constitutional guarantees against the taking of private property without just compensation. Within these guidelines, over the past 40 years, several different types of publicly sponsored programs have been devised by state and local governments to maintain land in its agricultural use. Although these units of government wield considerable police power or regulatory influence over farmland owners, farmland preservation efforts clearly tilt toward voluntary, incentive-based approaches. First-generation programs centered on the provision of direct cash via reduced taxes on farm real estate. Tax concessions, usually based on use-value farmland assessment, became fashionable in the late 1950s and early 1960s (Tremblay, *et al.*).

State legislatures in the densely populated Northeast were early adopters of these tax concession programs, which exempt the nonfarm component of farmland value from the local real property tax. Local governments in the Region are heavily dependent on the property tax for revenues, and urban pressure often leads to sharp increases in the value of open space lands. Farmland preservation programs proliferated in the 1970s (Bills, 1994). Most notably, high-profile efforts were initiated -- beginning with Suffolk County, New York -- to separate development rights from farmland (Lesher and Eiler). Interest also deepened in alternate preservation approaches that are also voluntary and incentive-based but do not necessarily convey direct cash benefits to farmland owners.

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This paper deals with two such incentive-based programs for farmland preservation. The first is the idea of a special use or agricultural district, a geographic area where a number of provisions are made to make agriculture a priority land use and to promote the continuation of farming. The second is right-to-farm law, where farmers are afforded legislated protection from legal challenges to their farming practices.

Agricultural Districts

The agricultural districts idea grew out of attempts by state legislatures to shelter farm real estate from escalating annual property tax levies. In 1965, the California legislature passed the Williamson Act, which not only established the legal framework for preferential tax treatment for farmland owners, but also authorized local governments to create or designate land areas called agricultural preserves (Grillo and Seid). Local governments were given the authority to use property tax relief, by assessing farmland at its agricultural use value, to encourage the continuation of farm and ranch activities within the boundaries of the agricultural preserve.

At about that time, the Governor of New York blocked two consecutive efforts to legislate use-value farmland assessment. Instead, he appointed a Temporary Commission on the Preservation of Agricultural Land and asked for a more thorough review of the steps state and local governments might take to promote agriculture and protect farmland resources (Bills and Boisvert, 1990a). The Temporary Commission was instrumental in developing and refining the concept of an agricultural district. The agricultural districts idea was clearly related to the experimentation in California with agricultural preserves. As in California, the notion was to identify areas where farming is recognized as a priority land use and to take steps to improve the future prospects for retaining that acreage in agricultural production.

New York enacted the Northeast's first agricultural district law in 1971 (Bills and Boisvert, 1990a and 1990b). That enabling legislation spelled out the types of land deemed eligible for districting, steps local governments must follow to enroll or remove land in an agricultural district, and the provisions that applied to landowners who decide to enroll their land within an agricultural district boundary. By the early 1980s, legislatures in three other Northeast states (Pennsylvania, Maryland, and New Jersey) had also enacted laws which make reference to

establishing agricultural districts, areas, or preserves (Bills and Boisvert, 1988).[1] As noted later in this paper, Delaware instituted an agricultural districts program in the early 1990s.

The New York law is probably the most widely discussed application of agricultural districts, due to its longevity and the scope of state and local efforts to implement it. For these reasons, the New York law has served as a model for laws in other states and is discussed in detail in this paper. Contrasts in the use of the district idea elsewhere in the Northeast are also discussed briefly.

The Agricultural District Concept In New York[2]

The declaration of intent by the New York legislature states that the purpose of the Agricultural District Law is to provide a locally-initiated mechanism for the protection and enhancement of agricultural land for agricultural production. The steps required for creating an agricultural district are spelled out in detail. The creation process is initiated with a proposal by interested landowners to the county legislature. Owners forwarding a proposal must collectively own at least 500 acres or 10 percent of the land proposed for a district, whichever is greater. The proposal must include a description of the district boundaries and a recommendation on whether the district, once approved by the county legislature, should come under review after 8, 12, or 20 years.

The law requires public notices and hearings at prescribed time intervals to acquaint local citizens with the proposal and to ensure the orderly assembly of opinions on the merits of establishing a district. The proposal is reviewed by the county planning agency and by a local advisory committee who report to the county legislative body.

While the law restricts district size to no fewer than 500 acres, landowners and the county legislature are granted considerable latitude on the configuration of lands included within the boundaries of an agricultural district. The law requires that the district consists predominantly of

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[1] District laws have also been passed in Minnesota, Iowa, Illinois, Kentucky, Ohio, Virginia, and North Carolina. See Bills and Boisvert (1988) for a brief description of these laws.

[2] Material for this section is drawn from the text of the districts law: Chapter 25-AA of the NYS Agriculture and Markets Law.

viable agricultural land and is consistent with state and local comprehensive plans, policies, and objectives. Viable agricultural land is defined as "land highly suitable for agricultural production and which will continue to be economically feasible for such use if real property taxes, farm use restrictions, and speculative activities are limited to those in commercial agricultural areas not influenced by the proximity of nonagricultural development."

The law also requires direct input from state agencies in district creation. Before approval by the county legislative body, the Commissioner of the New York State Department of Agriculture and Markets must certify to the local legislative body that the area proposed is eligible for districting. Critical factors are determinations by the state agency that the proposal consists of predominantly viable farmland, and is consistent with state plans, policies, and objectives. The Commissioner must consult with the Department of Environmental Conservation and the Secretary of State before making such determinations.[3]

Provisions of the Law

The Agricultural District Law contains six major provisions that apply in all agricultural districts. These provisions are designed to facilitate the retention of agricultural land in three basic ways. First, the law restricts many of the usual land management options open to other governments whose boundaries overlap those of the agricultural districts. District authority may supersede local ordinances designed to regulate farm structures or practices beyond the normal requirements of public health and safety. Within an agricultural district, the right of government to acquire farmland by eminent domain is modified. These rights can be exercised on actively farmed land only after serious consideration has been given to alternative sites. Finally, the right of public agencies to advance funds for construction of public facilities to encourage nonfarm development is modified. Such funding must be preceded by public notices and hearings, along with reviews by state agencies. Second, state agencies must modify their administrative regulations and procedures to facilitate the retention of agricultural land. Such regulations must,

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[3] It is possible to create an agricultural district at the state level. The Commissioner of Agriculture and Markets may create districts in land units consisting of 2,000 acres or more which predominantly include "unique and irreplaceable" agricultural land. This initiative requires consultation with local elected officials, planning agencies, and contacts with state agencies before any action is taken. To date, no efforts have been made to create a district at the state level.

of course, be consistent with standards for health, safety, and the protection of environmental quality. These provisions are designed to promote a more stable environment for farm operations and to reduce nonfarm competition for scarce rural land resources and the uncertainties that can lead to a gradual disinvestment in agriculture. Some increased costs of production to comply with local ordinances or with procedures and regulations established by state agencies may also be avoided by farmers whose land is in an agricultural district.

Finally, the Agricultural Districts Law may provide direct monetary benefits to farmers who are willing to participate in a district for an extended period of time. Special use districts that overlap the boundaries of a district are restricted in the imposition of benefit assessments or special *ad valorem* levies on farmland within the district. These restrictions apply to improvements for water, sewer, lighting, nonfarm drainage, and solid waste disposal or other landfill operations. In addition, landowners of 10 or more acres which have generated gross farm product sales of at least $10,000 per year during the preceding two years can apply for an agricultural assessment. These owners receive an exemption designed to remove the land's nonagricultural value from the property tax roll. Thus, taxes are levied based on capacity to produce agricultural commodities. If land receiving the agricultural exemption is converted to a nonagricultural use, the law provides for collection of penalty taxes.

District Reviews

Initially, the law specified that districts should be reviewed every 8 years. More recent amendments give county legislative bodies the option of an 8, 12, or 20-year review period. As with district formation, public notices and hearings are accompanied by evaluations made by county planning agencies, the county agricultural districting advisory committee, and the New York State Department of Agriculture and Markets.

County legislatures can terminate a district or recertify it for another term. A district review affords opportunities to delete or add acreage to the district depending on the viability of land for continued agricultural use and needs to convert land to nonfarm uses. Boundary changes, however, can only be made during the 8, 12, or 20-year reviews, whichever is applicable.

Patterns of Implementation

Growth of districts began gradually because the program is voluntary and depends upon initiatives taken by individual landowners. Districted land area increased rapidly during the mid to late 1970s, and there have been small but consistent annual increases in enrollments during the 1980s (Table 1). Program enrollment during the 1980 decade is the net effect of newly created districts and changes in the district boundaries during mandated 8-year district reviews. District boundaries are often modified during the review to accommodate the wishes of landowners or to reflect changes in land use (Boisvert and Bills, 1986).

Table 1. Agricultural Districts in New York State

Year	*Number*	*Acres(1000)*	*Acres/district*
1972	13	72	5,538
1973	97	778	8,021
1974	170	1,752	10,306
1975	247	3,103	12,563
1976	313	4,208	13,444
1977	352	4,811	13,668
1978	386	5,507	14,267
1979	410	5,857	14,285
1980	401	6,462	16,115
1981	404	7,135	17,661
1982	406	7,371	18,155
1983	394	7,449	18,906
1984	393	7,684	19,552
1985	408	7,864	19,275
1986	414	8,006	19,338
1987	418	8,097	19,371
1988	420	8,253	19,650
1989	425	8,458	19,901
1990	425	8,476	19,944
1991	427	8,552	20,028
1995	411	8,481	20,635

Source: NYS Dept. of Ag. and Markets.

Total district numbers have remained fairly stable during the 1980s and early 1990s because of the 8-year district review process. To streamline administration and reduce the time and expense

required to conduct periodic reviews, several county legislatures have consolidated existing districts which were adjacent or nearly so. About one-fifth of the districts originally established by local legislative bodies have been consolidated. Average district size is now about 20,600 acres, up more than 5,000 acres from the late 1970s -- see Table 1.

Agricultural districts have been created in 50 of New York's 57 counties and account for 28 percent of New York's total land area (Boisvert, Bills and Bailey). Of the counties with no districts, most have little active farming due to proximity to New York City or being situated in the Adirondack Mountains. Districted acreage varies substantially from county to county, but both counties experiencing population pressure and urban growth as well as the more remote counties where farming is affected little by nonfarm pressure have a substantial portion of total land area in districts. Using the Standard Metropolitan Area (SMA) designation used by the Federal government as a crude measure of urban pressure, efforts to create agricultural districts in rural portions of New York have been roughly proportional to those in urban areas. Non-SMA counties have 27 percent of total land area in districts, compared with 29 percent in the more urban SMA counties. Six of the 16 counties with over 50 percent of their total land area in districts are metropolitan counties.

Farming in Agricultural Districts

Much districted acreage is not actively used for crop or livestock production. Some districts contain substantial brushland, woodland, or idle farmland. Some districts also encompass scattered residential and commercial developments. This traces to the legislature's intent for the agricultural districts program and the realities of land use in rural New York. The law requires that county legislatures and state agencies take measures to ensure that an agricultural district consists predominantly of viable agricultural land and that the district would not be inconsistent with state and local comprehensive plans, policies, and objectives. In practice, this means that contiguous district boundaries are often drawn around tracts of actively farmed land which are intermingled with land that is idle, forested, or used for a variety of other nonfarm uses.

According to the New York State Department of Agriculture and Markets, about 64 percent (roughly 5.4 million acres) of districted land area is presently owned or leased by active farmers;

about 36 percent (3.1 million acres) is used to produce crops. About 7.5 million acres of farmland and 4.9 million acres of cropland were reported in the most recent Census of Agriculture (U.S. Department of Commerce). The agricultural district program currently involves well over half of the total cropland base.

Factors Influencing District Participation

A decision to enroll farmland in an agricultural district is voluntary and conditioned by an individual landowner's perceptions about the benefits and costs associated with participation. Direct financial benefits include the possibility of reduced property taxes through an agricultural exemption which limits farmland assessments to agricultural use, rather than full market value. Other benefits and costs associated with district participation are less tangible. The law's provisions help insulate farm operators from overly restrictive government regulations and administrative practices, and mitigate the effects of eminent domain proceedings and public spending for nonfarm development. However, enrolling land in an agricultural district does not actually restrict owners' use of farmland, and the benefits of being in a district must be balanced against the likelihood that a parcel of farmland can be sold for more lucrative nonfarm uses as urban pressure intensifies.

Individual landowners undoubtedly weigh these potential benefits differently, but statistical analysis of county differences in districted acreage shows that enrollment is tilted toward counties with better quality farmland (Boisvert, Bills and Bailey). Common measures of farm viability -- value of farm sales per crop acre and proportion of farmers who work on the farm on a full-time basis -- also boost district enrollment. Similarly, enrollment is positively related to urban encroachment, as reflected in the fraction of county personal income from nonfarm sources and rates of increase in housing units over the 1970-80 decade.

Average district size also helps explain patterns of enrollment. As district size increases, larger numbers of farmland owners cooperate on proposals to create agricultural districts, thus generating, to some degree, a demonstration effect of neighbors' involvement in the district program. In addition, larger districts also reflect the enthusiasm of government officials in some localities for the creation of large contiguous districts. There is some evidence that periodic

district reviews reinforce this relationship by tending to add additional acreage when consolidating districts created in previous years.

Conversely, an important statistical relationship cannot be demonstrated between district enrollment and differentials in property taxes paid by owners who utilize the law's provisions for an agricultural assessment on their land. This contradicts the often-expressed view that the principal reason New York landowners enroll farm acreage in districts is to take advantage of the property tax savings provided by a lower agricultural assessment on farmland. Comparisons of parcel data show that only a fraction of the districted acreage is advantaged by the law's provisions for agricultural property tax assessments.

Districting Efforts Elsewhere In The Northeast

As emphasized above, districting efforts in New York are closely intertwined with strategies to reduce the burden of local real estate tax levies on farmland owners. Although only a portion of districted land is benefited by agricultural assessments, court-mandated efforts to update property tax assessment rolls during the late 1970s and early 1980s clearly helped focus and energize landowners and local officials concerned with the fate of farm property after its revaluation at market value.

Four additional states in the Region have enacted legislation that provides for the creation of agricultural districts. Although other factors may have initially motivated interest in district legislation, each of these states has integrated the district idea with other elements of a wider farmland protection effort. In all cases, and in sharp contrast to the New York situation, district formation is a necessary prelude to a state-operated program to purchase farmland development rights. Similarly, owners of land in districts throughout the Region are benefited by separate provisions for use-value farmland assessment.

In Maryland, provisions for agricultural districts came with the passage of the Agricultural Land Preservation Foundation Act, which set in motion Maryland's effort to acquire farmland development rights (Bills and Boisvert, 1988; Williams and Bills). Forming a district is a precursor to negotiations, or at least considerations of, separating the development rights to a

farmland parcel. Maryland operates the Nation's largest purchase of development rights program. Districts are created after considering the economic viability of the farmland parcels. Attention is also given to local land development needs, the presence of a critical mass of farming operations in the neighborhood, and the future prospects for pressure to convert the land parcels to a developed use. Once created, the law restricts local regulations affecting the conduct of routine farming operations and enables the owner to enter into negotiations for the sale of development rights to their land.

Pennsylvania's enabling legislation, entitled the Agricultural Area Security Law, was first enacted in 1981 (Boisvert and Bills, 1988). Decisions to create a district or agricultural security area are based on considerations of the land's future viability in farm use and the external pressures flowing from land development needs in the larger community. The legislation is fairly closely patterned after the New York law, and makes provisions for altering state policies to promote the continuation of active farming and limiting excessive local regulation of farming practices as well as modifying the steps requires to claim actively farmed land under an eminent domain proceeding.

Enabling legislation for districts in New Jersey came with passage of the 1983 Agricultural Preserve Demonstration Program Act (Boisvert and Bills, 1988). When forming districts, public officials are instructed to consider both land quality and economic viability, as well as circumstances in the larger nonfarm community when establishing a district. Once created, the New Jersey law makes reference to limitations on nuisance claims regarding farm practices. These provisions are related to more generic "right-to-farm" laws now prevalent throughout the Nation and discussed in a subsequent section of this paper. All states with agricultural district laws have enacted right-to-farm laws, but New Jersey is among the few who have codified such laws within district enabling legislation.

Enabling legislation for agricultural districts and the purchase of development easements in Delaware came with the passage of the Agricultural Lands Preservation Act in 1991. By 1994, although no state funding was in place for purchase of development rights, 18,800 acres were enrolled in agricultural districts (Cole, 1995).

The Delaware Agricultural Lands Preservation Foundation (9 members) was established by a provision in the legislation and charged with utilizing stated eligibility criteria in forming agricultural districts. These criteria include the Land Evaluation and Site Assessment (LESA) system to determine the quality of farmland and forestland and the long-term agricultural viability of the lands. A minimum critical mass of 200 acres is required to form a district.

As a means of strengthening interest in formation of agricultural districts, the enabling legislation also provided for the Delaware Farmland Preservation Fund which is likely to receive state funds in 1995. Development easements can be purchased, with eligible landowners receiving the difference between the fair market value and the agricultural value for their land in the agricultural districts.

Several core similarities between state enabling legislation for agricultural districts in the Region are evident and merit enumeration. First, from the perspective of individual landowners, enrollment of land in a district is strictly voluntary. An owner can only enroll his/her land in a district after making an explicit decision to do so. Making land use policy dependent upon the volition of individual landowners stands in sharp contrast to program approaches based on constitutional authorities for use of the police power. Many leading examples of nondescretionary land management, again from the perspective of each owner of a land parcel, are embodied in rules and regulations promulgated by public agencies and in local zoning ordinances.

Second, and related to the first, the district idea is closely allied with compensatory approaches to rural land management. Along with provisions for their creation, administration, and termination, agricultural districts laws also provide mechanisms for (some direct and some indirect) program participants to obtain financial benefits. These benefits can range from lower annual property tax bills and exemptions from certain levies on property owners to pay for extensions of public utilities to the cash proceeds from the sale of the land's development rights. Finally, production costs inside ag districts may be lower or more certain if local laws are less restrictive on cost effective farming practices or if participating farmers are less vulnerable to legal action.

Finally, district implementation and administration is structured as a partnership between state and local governments. Local elected or appointed officials are heavily involved in the districting effort. Often the principal impetus for forming districts comes from the local, grass-roots level under the auspices of state enabling legislation. At the other extreme, districting efforts have given state agencies some new leverage or influence over land management decisions traditionally exercised at the local level.

All of these features -- voluntary participation, financial incentives, and a state/local partnership -- probably reflect the legal and political realities facing public rural or open space policy in the Northeast. States in the Region are home-rule states, and authorities to affect changes in the use of land are often delegated to lower levels of government. Individual landowners are keenly aware that land polices instituted by state and local governments can limit the range or timing of their land management options, affect land values, or both. They vigorously defend their constitutional guarantees for compensation if their land management options are altered or restricted by public programs and policies.

Right-to-Farm Laws

Urban-related growth and development in traditional farming communities can generate complaints from new nonfarm residents about farming practices. Common concerns have to do with dust, odors, noise, vibrations, and the fate of animal wastes, agricultural chemicals, and other soil amendments. In some instances, offended neighbors resort to legal action to seek relief in the form of court suits waged against a farm operator.

To assist farm operators who may need to ward off such legal actions, legislatures in 48 states have enacted right-to-farm laws (Centner, 1986; Hamilton and Bolte, 1988). These laws attempt to strengthen the options farmers have to defend themselves in a nuisance suit. Right-to-farm laws have an unfortunate name because of confusion generated over legislative intent. Such laws, despite the optimistic tone of their title, are not designed to shield a farmer from legal disputes with neighbors or more firmly establish farming as a land use priority in a community. Rather, they provide a legal defense that a farm operator might be able to use to help defeat a court suit aimed at declaring some farming practices a nuisance.

Persons who move into the proximity of an established farming operation are limited under state right-to-farm laws in their use of nuisance arguments in court disputes over farming practices. Specifically, persons who change property use near a farm cannot use nuisance law to preclude existing agricultural conditions and practices under some circumstances. These circumstances are that the agricultural practices and conditions were not a nuisance when first used on the farm or at the time of the adoption of the right-to-farm law, whichever was later.

The commonly stated rationale for such laws is that, by strengthening a farmer's hand in court, or even reducing the probability of facing future legal action, he/she will be encouraged to make new investments and take other steps needed to promote the economic viability of the farm business. Proponents of such laws argue that right-to-farm legislation is part of an incentive package needed to nurture a strong agricultural base, especially in communities experiencing some population growth.

State right-to-farm laws vary, but in all cases farmers do not have license to pursue farming activities without regard to their neighbors. All state laws exempt unreasonable or negligent farming practices from right-to-farm protections. To overcome definitional problems with reasonable farming practices, both Maine and New York (along with Michigan, further west) assign their state Commissioner of Agriculture the task of defining "generally acceptable farming practices" (Bills and Boisvert, 1993).

State laws often explicitly exempt any concerns with water resources -- such as changes in water quality due to crop or livestock production -- from protection under right-to-farm legislation (see Table 2 for a summary of Northeast states). A few state laws specifically provide protection from both private and public nuisance, but many are more restrictive and apply only to proceedings which seek to declare a farm or farming practice a private nuisance.

Another contentious area affecting the scope of nuisance protections is changed conditions for a farming operation. Many farm businesses alter the mix of commodities produced, type of production technologies used, and/or increase the volume of commodities produced. Some state laws explicitly deal with this situation and limit protection to farms with no material changes in the condition or nature of farming operations. This might mean, for example, that a dairy farmer

Table 2. State Right-to-Farm Laws in the Northeast

		Specific provisions for:			
State	*Year adopted*	*Local laws*	*Water pollution*	*Changed conditions*	*Public/private nuisance*
Connecticut	1981	x[a]		x	
Delaware	1980				
Maine	1981			x	x
Maryland	1981	x[b]	x		x
Massachusetts	1979				
New Hampshire	1981		x		
New Jersey	1981	x[b]		x	x
New York	1981			x	
Pennsylvania	1982	x[a]	x	x	
Rhode Island	1982	x[a]		x	
Vermont	1981	x[b]		x	

[a] Right-to-farm law limits local laws and ordinances.
[b] Right-to-farm law can be superseded by local laws and ordinances.

maintaining herd size has right-to-farm protection if sued, but farmers who expand herd size or use new technologies, e.g., for manure disposal, may be more vulnerable to successful nuisance suits.

Right-to-farm laws have less force if they can be compromised or voided altogether by lower levels of government. Several state laws deal with such possibilities. Interestingly, not all of these state right-to-farm laws attempt to circumvent any local efforts to regulate objectionable farming practices through the enactment of local laws or ordinances (Table 2). Rather, some state laws explicitly allow for right-to-farm protections to be superseded by local regulation or ordinance. State right-to-farm laws appear to be somewhat superfluous in these cases because local governments can and often do regulate agricultural practices under their authorities to apply police powers.

This tension between state and local interventions in the use of rural land may or may not help explain the apparent proliferation of local right-to-farm laws. Potentially hundreds of towns and counties in the Region could be targeted for pro-agriculture, right-to-farm legislation.

Ones intuition is that interest in promulgating local (county or town), pro-agriculture right-to-farm laws is on the increase in the Region. Reviews of the text of such laws or ordinances

indicate an orientation toward affirming, or reaffirming, the importance of agriculture to the local community. However, the instrumental impact of such local laws on local agriculture or the economic viability of farm businesses in the community is unclear. This lack of clarity certainly applies at the more aggregate level. There is little, if any, comprehensive evidence on the rate of occurrence of legal disputes among the total population of commercial farm businesses in the Region. Even less is known about the texture of such disputes and just where behavior thought to be a nuisance might fit in with other conflicts between neighbors or allegations that statutes governing water quality have been violated. As a result, the impetus for right-to-farm law has been propelled by anecdote and discussion of just a few high-profile court cases.

This anecdotal evidence, however, does suggest that, not unlike virtually all other segments of American society, farm operators and their neighbors increasingly turn to the courts to resolve controversies over land use; parenthetically, one could note that the situation is easily attenuated in farming locales situated near large and/or expanding urban population cores. New residents in these areas are typically several generations removed from agriculture and do not have a working knowledge of the cultural and husbandry practices used on nearby farms. Similarly, not all farm operators approach their neighbors with an adequate amount of sensitivity. And, at the extreme, "bad actors" can disrupt relations with neighbors and public officials with flagrant use of poor farming practices.

With new neighbor relationships comes the dynamic of communication and community interaction. New examples abound. In the 1990s many members the farm community have undertaken direct, personalized efforts to improve relations with adjacent property owners. Some New York dairymen, for example, make periodic mass mailings to neighbors to invite feedback on their farming practices and announce such upcoming events as pesticide/herbicide applications or land applications of stored livestock wastes. Overt efforts are made to time farming activities in ways that minimize any impacts beyond the farm gate.

In addition, the farm community continues to look to the more traditional avenue of lobbying for legislative relief. Relief in this case would mean reduced threats of legal attack. As noted above, some states have fine-tuned their statutes to establish a legislative stance on 'sound'

agricultural practices. The legislative intent is to give farm operators still more leverage in any efforts they might need to make to ward off allegations that their farming practices constitute a common-law nuisance. In New York, for example, the Commissioner of Agriculture and Markets is using new authorities under the Agricultural District Law to investigate complaints that a farm operator is engaged in unsound farming practices; a determination that practices used are sound can be used by a farmer when countering allegations that the farm business constitutes a private nuisance (Bills and Boisvert, 1993).

Discussion

Governments throughout the Northeast have been very attentive to measures to maintain rural land in an agricultural use. This paper has dealt with attempts to fashion incentive-based programs to increase the visibility of agricultural land uses and promote the continuation farming. These programs are generally thought to complement attempts to preserve farmland with direct cash incentives. The latter have dwelled on reductions in annual property taxes on farm real estate and/or schemes to compensate farmland owners for their development rights.

Agricultural districts have provided a mechanism for mobilizing local support for agriculture and bundling a package of initiatives and considerations that do affect, to some degree, the longer term viability of commercial farming. Right-to-farm laws, effectively intertwined with districting initiatives, can strike a very responsive cord both inside and outside the farm community, as evidenced by legislative activity in many parts of the Northeast at present. At the same time, a wider debate is developing in the U.S. over property rights and the legitimacy of public interventions in private markets for rural land. The farm communities' quest for "farming rights" will ultimately be balanced against the rights and interests of other groups in the community. The courts will undoubtedly be involved in striking this balance, but education and awareness of the Region's important food system will come into play as well.

In the interim, there is little concrete evidence that farmers and their elected officials can, or really want to, restrict citizen access to the courts to redress disputes over land use in any significant way. Indeed, certain access to a legal remedy to disputes over land use is an integral part of the American scene. So on practical grounds, at the very least, part of the future must include steps to educate all citizens on farming and on measures that can be taken to generate

mutual understanding and mitigate neighborhood disputes. Farmers, not unlike other business operators, will probably be held to ever more exacting environmental and community standards as we move into the next century. The legislative scene will need to continue to evolve to help meet those broad social objectives.

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