How to Sell Your APR

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Is my land protected by an APR?

https://maps.massgis.digital.mass.gov/MassMapper/MassMapper.html
Types of APR’s

An Evolving History

1) 1981 to 1985- APR’s do not have transfer requirements
   - Can be sold to anyone for any price
   - MDAR has no jurisdiction over sale

2) 1986 to first half of 1994- APR’s include a **Right of First Refusal (ROFR)**
   - MDAR has right to purchase (and assign)
   - No limit on price

3) Second half of 1994 to Present- APR’s include an **Option to Purchase at Ag. Value (OPAV)**
   - MDAR has right to purchase (and assign)
   - Sold at Agricultural Value
# APR Seller Requirements

<table>
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<tr>
<th>No Transfer Language</th>
<th>Right of First Refusal</th>
<th>Option to Purchase at Ag. Value</th>
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| • No Requirements     | • Notice of Intent to Sell  
                          • Executed P&S Agreement | • Notice of Intent to Sell  
                          • Executed P&S Agreement  
                          • Price Determination  
                          • Underlying Deed (Sometimes)  
                          • Pre-Sale Conference (Sometimes) |
How Much Can I Sell My APR For?

No Language

• No Limitation

ROFR

• No Limitation

OPAV

• Fair Market Agricultural Value= Combination of Ag. Land, Ag. Business and Ag. Dwelling Value
How Much Is My APR Worth?

Agricultural Appraisal

- More detailed approach
- Price
- Takes Time

Inflation Calculation

- Less detailed
- No Cost
- Minimal Time
Who Can I Sell To? (ROFR/OPAV)

**Farmer**
- an individual, corporation, LLC, or partnership that: (a) owns and operates a farm business; or (b) is employed full time on a Farm for a minimum of two years.
- Must submit supporting documentation
- Must submit Farm Business Plan*

**Beginning Farmer**
- an individual or entity who has less than two years experience managing or owning a Farm.
- Must submit Farm Business Plan
- Must submit Financial Plan
What Scenarios Are Exempt from Process?

- In-Family Transfers (Check APR Document)
- Transfer by Will
- Transfer from one Partner to another
How Long Does it Take to Review?

Check the APR Document for Timeline!

Once required documents submitted, **up to:**

**ROFR**
- 16 Days
- 60 Days

**OPAV**
- 16 Days
- 60 Days
- 120 Days
Potential Outcomes

Once required documents submitted:

- **Waives**
  - Waiver Document Provided
  - Sale Proceeds

- **Exercises**
  - Statements of Interest
  - If multiple qualified applicants, seller chooses

- **Neither Waives or Exercises**
  - Sale Proceeds

- Seller can withdraw at any point up to exercising
- Seller can appeal to ALPC
Transfer Statistics

- 42-Year Program
- 12 Exercised (~1%)
- 4 Assigned
- Sometimes there are no bids, sometimes there are title issues, timing issues, etc.
Resources Available

- Copy of APR Document
- Land Survey
- List of Appraisers
- Appraisal Guidelines
- Farm Business Plan Template
- CPI (Inflation) Formula Guidance
APR Regulations

330 CMR 22: APR Program

- Govern all APR’s
- Outlines Transfer Procedures
- APR Document Takes Precedent

330 CMR - DEPARTMENT OF AGRICULTURAL RESOURCES

330 CMR 22.00: AGRICULTURAL PRESERVATION RESTRICTION PROGRAM

Section

22.01: Scope and Purpose

22.02: Definitions

22.03: Composition and Meetings of the Agricultural Lands Preservation Committee

22.04: Eligibility of Agricultural Preservation Restriction Program

22.05: Application Procedures

22.06: Agricultural Preservation Restriction Program Application Processing and Closing Procedures

22.07: Criteria Applicable in Evaluation of Projects

22.08: Agricultural Preservation Restriction

22.09: Departmental Approval

22.10: Transfer or Sale of an APR Parcel

22.11: Agricultural Preservation Restriction Parcel Violations

22.12: Release of an Agricultural Preservation Restriction

22.13: Adjudicatory Hearings

22.14: Policies and Guidelines

22.01: Scope and Purpose

The scope of 330 CMR 22.00 is to implement the terms of M.G.L. c. 26, §§ 23 through 24, and M.G.L. c. 184, §§ 31 and 32. The purpose of 330 CMR 22.00 is to provide guidance and clarification for present and future APR Parcel Owners regarding their rights and responsibilities under 36, 1975, c. 786, in conjunction with the direction and guidance provided in Department policy statements, guidelines, and other informational sources referenced in 330 CMR 22.14, to encourage sound soil management practices in accordance with generally accepted agricultural practices, and to regulate activities and uses that may be detrimental to the retention of the land for agricultural use in perpetuity.

22.02: Definitions

As used in 330 CMR 22.00, the following words shall have the following meanings, unless the applicable Agricultural Preservation Restriction provides a different definition, in which case the definition in the Agricultural Preservation Restriction controls:

Adjudicatory Hearing means an informal hearing under M.G.L. c. 38A under which parties may present evidence on issues of fact, and argument on issues of law and fact prior to the ALPC issuing a written final decision.

Agricultural Lands Preservation Committee (ALPC) means a committee in the Department of Agricultural Resources whose membership, powers, duties, and statutory grant of authority are set forth in M.G.L. c. 26, §§ 23 and 24.

Agricultural Preservation Restriction (APR) means a perpetual restriction to retain land or water areas predominately in their agricultural, farming, or forest use, and forbids or limits certain property development rights and uses.

Application means the use(s) enumerated in M.G.L. c. 61A, §§ 1 and 2.

Applicant means the owner(s) of land who submit an Application for a Project.
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