



Upper Midwest  
Management

# NORTH CENTRAL NEWS



NORTH CENTRAL®  
Realty

Volume 2, No. 2

The Land Specialists

Spring 2007



## Estate Planning for Real Estate Owners With Family Limited Partnerships

By: Jeffrey C. O'Brien, Mansfield Tanick & Cohen, P.A.

### Introduction

With the Democratic takeover of Congress in the 2006 elections, the likelihood of the Federal estate

tax surviving in some form has increased. As a result, owners of large real estate holdings must again consider the impact of the estate tax on their ability to transfer their wealth to future generations free of tax. The most common estate planning vehicle available for this purpose is the family limited partnership ("FLP").

### How an FLP Works

Limited partnerships can be formed for any valid business purpose in Minnesota<sup>1</sup>, and a FLP is simply a limited partnership established for family purposes. Unlike a general partnership where all partners share equally in voting and liability, a limited partnership divides partners into two categories – general partners who possess management/voting control and who can be held personally liable for the debts and obligations of the partnership, and limited partners who possess only financial rights and who have limited personal liability.

The distinction between voting and financial rights makes it possible for a real estate owner to transfer his/her holdings to the FLP while still retaining management control over the real estate through retention of the general partnership interest. Assets transferred to a FLP are removed from the estate of the transferor during life and replaced with an ownership interest in the FLP. Once the FLP holds the real estate, transfers of limited partnership interests (rather than

direct ownership interests in the real estate) can be made to spouse and children through use of the transferor's annual gift tax exclusion (currently \$12,000.00 per donee) and these transfers reduce the value of the transferor's estate (and, by extension, any possible estate tax obligation arising from the transferor's ownership of the assets).

An additional benefit of using a FLP is that the value of the interest transferred with the limited powers can be discounted, which generates a maximization of the use of gift tax exemptions and/or a maximization of the use of generation-skipping tax exemptions, depending on the generations of the recipients<sup>2</sup>. These discounts (for lack of marketability and lack of control) can be as much as 30%-40%. Hence, when combining the annual gift tax exclusion with the maximum allowable discount of 40% it is possible to transfer \$30,000 of real estate to a single donee free of gift tax by utilizing a FLP structure.

<sup>1</sup> These purposes include farming, as Minnesota's corporate farming law, Minnesota Statutes Section 500.24, which otherwise prohibits corporate ownership of farming, explicitly allows for the creation of a "family farm partnership", which is defined as "a limited partnership formed for the purpose of farming and the ownership of agricultural land in which the majority of the interests in the partnership is held by and the majority of the partners are natural persons or current beneficiaries of one or more family farm trusts in which the trustee holds an interest in a family farm partnership related to each other within the third degree of kindred according to the rules of the civil law, and at least one of the related persons is residing on the farm, actively operating the farm, or the agricultural land was owned by one or more of the related persons for a period of five years before its transfer to the limited partnership, and none of the partners is a corporation." M.S. §500.24, Subd. 2(j).

<sup>2</sup> Note: if the transferor retains less than a 50% limited partnership interest at the outset, the transferor has already achieved a savings in that a discount can be applied to this interest on account of it being a minority interest (any interest which alone cannot exercise control over the FLP is considered a "minority" interest).

*Estate Planning continued on page 3*

## Meet Dave Gehrke

I was raised on a dairy and crop farm north of Winthrop and graduated from Winthrop High School in 1975.

I attended the University of Minnesota, Waseca for two years and earned an Associate Degree in Applied Science in general agriculture. I then transferred to the University of Wisconsin, River Falls and graduated in 1979 with a degree in Broad Area Agriculture and a minor in Ag Economics and Ag Business. A few of my college activities included: Alfa Gamma Rho fraternity, Campus Radio and Soils Club.

After college I accepted a position with the Federal Land Bank of St. Paul as a loan officer and had worked in Chippewa Falls, WI and Buffalo, MN in that capacity.

In 1985 our family moved to New Ulm, MN and I started working with Production Credit of Mankato (Farm Credit Services) as a loan officer, which eventually resulted in working with the special credit needs of the farm crises. Part of the responsibilities included the management of properties and appraisal work. I became more and more involved in real estate and the appraisal side of the business. I received my appraisal accreditation from the American Society of Farm Managers and Rural Appraisers (ASFMRA) in 1990 along with the Certified General Real Property Appraisal License awarded by the state of Minnesota. During that time, I served as President of our Minnesota Chapter of the ASFMRA. I joined the team of Upper Midwest Management in 1999 as an appraiser specializing in agricultural properties such as hog, dairy, poultry and beef facilities appraisals across the Midwest.

My wife, Ruth Ann, and I have been married 23 years. Ruth Ann is an elementary music teacher at Jefferson Elementary School for the New Ulm School District and organist at Oakwood United Methodist Church in New Ulm. We have two children, Justin and Kristen. Justin is finishing up at Ridgewater College in Willmar. He plans on continuing his education at the University of South Dakota in Brookings this fall and is pursuing an agricultural degree. Our daughter Kristen was a Rotary Exchange student in Germany her junior year in high school. She is currently pursuing a degree in German and possibly education or international relations at Concordia College in Moorhead.



## Heller honored at recent All Ag Banquet

Roger Heller, long-time area farm manager and real estate broker, received the Agricultural Achievement Award at the recent Renville County All Ag Banquet, Bird Island Ballroom.

Heller was raised on a South Dakota farm. He earned his Agricultural Education/Farm Management degrees at South Dakota State University, and taught Vocational Agriculture in both South Dakota and at Danube, MN. He worked briefly as an agronomist at Trojan Seed Company, Olivia, then along with partner Frank Saunders, started North Central Agricultural Service.

He holds real estate brokers licenses in 4 states and has also managed farmland in those states. He became a licensed Minnesota Auctioneer in 1976.

His company was the first in Minnesota to offer multi-parcel

farm auctions.

Heller has held several state and national positions in the American and Minnesota Farm Managers and Rural Appraisers organization and in the Realtors Land Institute of the National Association of REALTORS®.

In the early 60's, Heller purchased his first farm north of Danube and presently owns and operates 1,800 acres growing sugarbeets, sweet corn, peas, corn and soybeans. He was one of six people in the early 1970's that helped form the American State Bank of Olivia as a bank specializing in serving area farmers

Heller has served on the Greater Olivia Board, and was helpful in getting Lakeland Bean Company (today ADM Bean Company) operational in Olivia. In the late 70's he served on an advisory board that established Prairie Woods

*Heller honored continued on page 8*

## Example

The benefits of the FLP can be illustrated with an example. Mr. Sample is married with four adult children and seven grandchildren. He owns, in joint tenancy with his wife, four 30-unit apartment buildings. Sample establishes the Sample Family Limited Partnership (SFLP). Sample then transfers to the SFLP his and his wife's title to the four 30-unit buildings in return for a 49% limited partnership interest in SFLP to each of Sample and Mrs. Sample (note: Sample and Mrs. Sample also each retain a 1% general partnership interest in SFLP). The value of the retained minority limited partnership interests owned by each of Sample and Mrs. Sample are discounted in value due to the interests being minority interests. Sample obtains appraisals for each of the buildings. He also obtains a valuation for SFLP. Sample makes annual gifts of minority interests, in the form of limited partnership interests in SFLP, to his adult children and trusts for grandchildren in an amount designed to take advantage of his Annual Gift Tax Exclusion. Sample obtains an opinion supporting the valuation of the minority interests at a discount on the basis of lack of marketability of the financial rights and lack of voting rights and control.

The gifts of minority interests of financial rights made to the Sample children and grandchildren allow Mr. and Mrs. Sample to use their combined annual gift tax exclusion up to the maximum of \$24,000 per child or grandchild. This method of gifting still allows Mr. and Mrs. Sample to preserve their entire respective gift and estate tax exclusions<sup>3</sup> to use during the remainder of their lifetimes or at death if they wish.

The gifts to the trust for the grandchildren are also an efficient way to make the most of the generation-

skipping transfer tax exclusion<sup>4</sup> by transferring appreciating assets at the current discount to subsequent generations.

The gifts affect the valuation of limited partnership interests of SFLP and the determination of discounts, as they transfer non-voting financial rights only, leading to a lack of marketability and control. The purpose of the discount is to create the ability to transfer a larger portion of the limited partnership interest. (If the interest transferred is given a 40% discount, a transfer of \$24,000 to each child or grandchild is really a transfer of \$60,000).

As for income tax savings, interests transferred to the children reduce the income earned by Mr. and Mrs. Sample on the assets and lessens their annual tax burden. The children are paying taxes on the income that they earn from the acquired assets, but likely at a lower rate than Mr. and Mrs. Sample would have been.

## Conclusion

So long as the estate tax remains in effect, the FLP will remain a powerful and effective estate planning tool for real estate owners.

*Jeffrey C. O'Brien is an attorney with the Minneapolis firm of Mansfield Tanick & Cohen, P.A., practicing in the areas of business transactions, real estate law and estate planning. He can be reached at 612-339-4295 or by email at [jobrien@mansfieldtanick.com](mailto:jobrien@mansfieldtanick.com). This article does not constitute legal advice or otherwise create an attorney-client relationship.*

<sup>3</sup> The gift tax exclusion is \$1,000,000.00 and the unified estate tax exclusion varies by year. In 2006-2008 = \$2,000,000.00; 2009 = \$3,500,000.00.

<sup>4</sup> The GSTT for 2006 is \$2,000,000.00 and matches the estate tax exclusion in each year.



# Real Estate Offerings



NORTH CENTRAL® Realty, A Division of Upper Midwest Management Corporation  
Farmland Offerings. Contact either the New Ulm, Olivia, or Hutchinson office

## BUILDING SITE

### BROWN COUNTY, MN

**Property:**

5.5 acres more or less in SW corner of SW 1/4 of NW1/4 in Sec. 25, Twp. 108N, Rge 31. (Survey to be done)

**Benefits/Features:**

Good building site with established Windbreak. 13 miles south of New Ulm, MN

## HUNTING LAND

### STEVENS COUNTY, MN

**Property:**

141.19 acres more or less, Sec. 21, Twp. 125, Rge 34 (Pepperton Twp)  
115.2 ac. CRP

**Benefits/Features:**

Good hunting property with hundreds of Acres of State land nearby. 4 wetlands  
CRP income

## CRP PROPERTY

### FARIBAULT COUNTY, MN

**Property:**

101.4 acres more or less,  
Sect. 3, Twp 102N Rge. 25W  
CRP Call Ron Sander 507-383-3032

**Benefits/Features:**

Good hunting property with lake, marsh and substantial state land nearby. CRP income

## DEVELOPMENT PROPERTIES

### LESUEUR COUNTY, MN

**Property:**

55 acres, more or less.

**Benefits/Features:**

Ready to be annexed into the City of Montgomery 7 miles south of New Prague. Utilities extend to east property line.

### RICE COUNTY, MN

**Property:**

38.7 acres, more or less

**Benefits/Features:**

2 building eligibilities. Nice size acreage for hobby farm or land banking. Very scenic with mature trees, creek and hill.

*"A smile  
is a passport  
that will take you  
anywhere you want  
to go."*

*-Anonymous*



*This newsletter is intended as general information to our clients and friends on agricultural subjects. It is not intended to render advice; such advice can only be given when related to actual situations. If you have any questions, please contact Jim Thomas, Owner, President of UMMC/NORTH CENTRAL® Realty at 507-359-2004.*

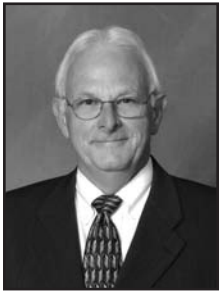
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Please e-mail us if you would like to visit with us about any of our services. Our e-mail address for NORTH CENTRAL® News is: [ummcolivia@ummccorp.com](mailto:ummcolivia@ummccorp.com)

Call NORTH CENTRAL® Realty, a division of Upper Midwest Management Corp., at 1-800-545-6227.

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# May We Be of Service to You?

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- Buyer Brokerage
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- Accredited Farm Managers

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[ummcolivia@ummccorp.com](mailto:ummcolivia@ummccorp.com)  
or at our New Ulm office at  
[info@ummccorp.com](mailto:info@ummccorp.com)



# 2007 Farm and Land Sales

Sold by: NORTH CENTRAL® Realty/Upper Midwest Management Corp.

January 1, 2007 – April 15, 2007

| Total Acres | County          | P.A. Sale Date | Price        | Buyer & Comments                 |
|-------------|-----------------|----------------|--------------|----------------------------------|
| 111         | Brown           | Feb            | \$353,963.00 | Farmer & Families                |
| 40          | McLeod          | Feb            | \$152,000.00 | Farmer                           |
| 10          | Brown           | Feb            | \$160,000.00 | Farmer                           |
| 111         | Brown           | Feb            | \$384,000.00 | Investor <i>waiting to close</i> |
| 148         | Renville        | March          | \$714,339.00 | Farmer                           |
| 151         | Renville        | March          | \$658,273.00 | Investor Buyer                   |
| 135         | Stearns         | March          | \$393,000.00 | Investor Buyer                   |
| 200         | Blue Earth      | April          | \$762,550.00 | Investor Buyer                   |
| 160         | Yellow Medicine | April          | \$436,000.00 | Farmer                           |

## The Right Time to Sell the Farm

By Roger Heller, Accredited Farm & Land Broker



With the recent rapid upward surge in farmland prices, we frequently are asked is this the right time to sell **the farm**? That is a question that we cannot answer with a yes or no.

Certainly, when we see southern and southwestern Minnesota land prices above \$4,000.00 per acre, many people tell us that they are tempted to sell. After all, there is an axiom in trading that says “one should reward an **up market**.”

Many of today’s landowners tell us, “well, I’d like to sell but the capital gains taxes will take most of the profits.” Well that misconception is never the case. There are several important considerations that are factual and can be analyzed and applied. Here are a few:



1. Federal capital gains tax rates are at an all time low. The maximum rate on the gain is 15% with some low income taxpayers being as low as 5%.

Many states also have their own capital gain rate and that must be factored in as well.

Since the calculations of capital gain consequences are complex including the recapture of depreciated assets, and a host of other issues, we always recommend that the selling candidate have a C.P.A. assist them with the tax calculations before they decide whether or not to place the property on the market.

2. Tax savings techniques are available: Here are some that accomplish savings and provide you more cash flow: (Net spendable dollars)
  - a. One is the tried and true IRC Section 1031 exchange. One can exchange farmland which may only be providing 3 – 4% return from cash rent for management free, conservative commercial real estate that provides 6%– 7% cash return. The 1031 exchange can often be structured as a tax free strategy. Although the taxes are actually only “**deferred**” if you sell the “new” property in your lifetime.
  - b. The Charitable Gift Annuity - A gift annuity is a combination of a gift to a charity and an annuity that will provide a payment for life. Capital gains taxes are avoided. The annuity payment is a fixed amount sometimes as high as 7 – 8% of the value at the time of the gift.

The percentage amount is dependent upon the age of the donor. The unused remainder gift goes to the charity upon the donor's death.

- c. The Charitable Remainder Trust (CRUT) – Similar in some ways to the charitable annuity. For some landowners, this capital gains avoidance technique is an excellent solution.

More details of how any of these techniques can be obtained from attorneys, CPA's and financial planners. NORTH CENTRAL® will gladly assist in obtaining the needed information.

Through the years, we have represented many clients that have employed one or more of these tax savings techniques. In many cases, they may employ more than one on the same farm sale, using the respective features of each technique to give them the benefits they desire.

Many families only sell one farm in their lifetime so this is an important decision. It should be considered only in its total context. You should be asking, **does a sale of the farm accomplish my long term goals for retirement and estate planning?**

These are some of the reasons that NORTH CENTRAL® Realty is using the **TEAM** approach. For our clients, we are providing access to, a leading C.P.A. firm, a certified financial planner and an estate planning attorney so our clients can structure that “once in a lifetime” sale to their best advantage.



*The right time to sell?* That question should be answered not by the desire to capture the absolute top price in a 10 year time window. None of us have a crystal ball that can determine the top beforehand. Rather, we should be asking **what is the farm doing for me today and long term?** Try not to be emotional, consider if I put those dollars to work somewhere else, will there be more benefits for me than continuing to own the farm. If the answer is yes, selling in today's seller's market may be the time for you.

*Heller honored continued from page 2*

Environmental Learning Center, near Sibley State Park.

In 1985 the Olivia Chamber of Commerce named him Business Person of the Year. Also that year Governor Rudy Perpich appointed Heller to serve on the Farm Crisis Task Force. In 1992, he became a member of the Minnesota Wetlands Rules Task Force. Since 1957 he has been a member of the Danube and the Olivia Lions Clubs. He also taught Sunday School and was a board member of the Zion Lutheran Church for several years. Roger and wife Arlene enjoy traveling. His daughter Naomi and husband Robert live in Greenville, WI. His youngest daughter Ruth lives in London, England.



*"I'm a great  
believer in luck  
and I find  
the harder I work  
the more  
I have it."*

*Thomas Jefferson*

## Ron Sander joins NORTH CENTRAL® Realty



Ron Sander has joined the staff of NORTH CENTRAL® Realty. Ron will be working out of his home office in Bricelyn, Minnesota and will help serve the real estate needs of farmers and investors in Southern Minnesota.

Sander recently retired from his local bank where he served as President since 1985. He is a graduate of Mankato State College with majors in Business Administration and Economics. In 1963, he began his business career as a Bank Examiner for nearly ten years

before moving on as a Bank Loan Officer.

Ron is no stranger to agriculture as he grew up on a farm and his banking career was closely tied to farming and rural communities. He has held a Real Estate Broker's License for over ten years and is transferring it to NORTH CENTRAL® in order to utilize their many excellent resources which will serve his clients real estate needs well.

Ron and his wife, Glorian, have five married children and eleven grandchildren making life quite busy at times.

## 2007 Land Owner Seminar

By Scott Nelson, Farm Manager



On Saturday, March 14th and 31st, Upper Midwest Management Corp/NORTH CENTRAL® Realty held their annual landowner seminars in Chanhassen and Mankato, Minnesota respectively. The seminars entitled "Changing Opportunities: A Look at Midwest Agriculture," treated 70 landowners

to an update on the commodity markets, the land market and factors affecting it, professional farm management, and the real estate services that Upper Midwest Management and NORTH CENTRAL® Realty have to offer.

This year's keynote speaker was Mark Shultz of Northstar Commodity, Minneapolis, Minnesota. His presentation included comments on the economic outlook nationally, current weather trends, the energy outlook including ethanol, and the livestock and grain market outlook.

Mark's overview of the current trend in bioenergy fuels and the upsurge in new plants going up across the Midwest raised many good questions. This also tied into his comments on the grain and livestock markets. The demand for corn is increasing because of ethanol useage and this is driving the price for corn at the present time.

Jim Thomas and Roger Heller then presented an update on

factors that are currently affecting the land market and current market values.

Leon Carlson, Dennis Schmidt, and Scott Nelson (depending on which location) then gave a presentation on the benefits of using a professional farm manager and what a farm manager can and will do for you. Many questions were asked including what types of leases do we use, how do we determine a fair cash rent, do we work with flexible cash rent leases, and how do we pick a new operator.

The program ended with a presentation on the real estate services that are offered by NORTH CENTRAL® Realty and Upper Midwest Management.

With the many questions that were asked it was evident that land owners are concerned about the current trends and opportunities in agriculture for the coming year. The grain markets have rallied almost \$1.50 per bushel for corn and \$2.00 per bushel for soybeans from a year ago. This in turn has driven cash rents that were negotiated in October and November much higher than those that were negotiated in August and September. It also has substantially changed the possible returns on other types of leases such as crop share and custom farming.

Change, I think that is one thing we can be sure of in life. In change there is always an opportunity to do better and increase profitability. Upper Midwest Management and NORTH CENTRAL® Realty are in the position to analyze this change and find new opportunities for our clients to maximize their financial goals.

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