Missouri Ag Law Brief

Introduction to Land Leases

In a land lease deal, the professional relationship between the two parties may well be the most positive it will ever be at the moment they complete their discussions and agree upon terms for the lease. Both parties have presumably just negotiated a deal with terms that each party feels are favorable to them and they look forward to the benefits of the deal they have just concluded. The deal has been made and the business relationship has begun.

The important question is whether there will ever come a time where something one of the parties does is perceived by the other party as being inconsistent with their agreement. In such an event, a complete breakdown in the relationship may be avoided through a simple face-to-face meeting to discuss the perceived disagreement. There is a sense of trust which exists in these face-to-face negotiations and rural landowners have for centuries placed a great deal of faith in that trust and believed that handshake deals were all that were needed between two honorable parties. That sense of trust has served many landowners and farmers very well for as long as handshake deals have been made.

However, disputes occur on a regular basis. A dispute may not occur until several years into the lease term. The dispute may not even arise between the same people who made the original agreement. The ownership or management of either the leasing farm or the farm which owns the land may have passed to another member of the family, leaving a dispute between two parties, neither of which were present when the original handshake deal was made, and, as a result, neither knows with certainty the details of the original deal.

Sometimes, the dispute occurs less innocently as one party purposefully breaches the original deal hoping that the other party will not want to escalate the conflict and simply let the breaching party's actions go unchallenged.

If there is a problem between the parties involved in an agreement involving the lease of land and those parties cannot solve their differences amicably, one of the parties may decide to initiate a lawsuit in an attempt to resolve the problem. This is the point where having a written agreement from the start, even though everyone was getting along very friendly, may save a significant amount of controversy and ultimately money as the dispute is resolved.

There are many reasons why one of the parties ultimately breaks some promise or expectation that was made in the original deal. Some of these reasons may stem from simple misunderstandings where both parties genuinely and honestly remember the terms of the handshake deal differently but unfortunately one or both have remembered the terms incorrectly. Other motivations may be less honorable. Multi-year business deals involving hundreds of thousands of dollars are very rarely made by handshake outside the farming community. There is sometimes a sense in the farm community that suggesting a business deal be put in writing may offend the other party. Written agreements should simply be standard operating procedure when dealing

with land leases. An enforceable lease refers to one which meets the specifications required by the court system to be allowed to have disputes settled in court. Even a written lease does not guarantee the lease will be enforceable as many other problems may arise if the lease is not composed correctly.

Should there ever come a time when the two parties decide to take their disagreement to court, the Statute of Frauds in Missouri requires that, under certain conditions, the original lease between the parties must have been in writing if the parties wish to have the courts enforce the agreement. Under these conditions, if the agreement was not in writing, the court will essentially ask both parties to exit from the door through which they came and hopefully work out the disagreement on their own.

The Statute of Frauds requires land leases be in writing to be enforceable when the terms of the agreement; specifically extend the lease longer than one year from the date the lease was signed; or the terms of the agreement are such that there is no way the lease could end in less than one year from the date the lease was signed. It is necessary that the party that is sued (the defendant) signed the written agreement. Of course, when the parties are developing the agreement, there is no way to know which party may end up getting sued, so it is always best to have all parties sign the agreement.

Although an agreement may not be enforceable by the courts, it may still be completed by the parties. A land lease agreement, or practically any agreement for that matter, is perfectly legal to complete even if that agreement violates the Statute of Frauds because it was not in writing and should have been. The courts do not get involved when both parties to an oral agreement carry through with all of their obligations and the business relationship ends without disagreement. As long as all the parties perform their duties under the agreement and no dispute erupts between them the parties and the lease may never be subject to the Statute of Frauds.

Under the Statute of Frauds, any lease for land for a period of one year or more must be in writing to be enforceable through the courts. This rule requiring a writing includes both the original lease and any modification to that lease to be enforceable. Specifically, where a lease, which by reason of the Statute of Frauds must have been in writing to be enforceable and is, in fact, put in writing, but is later modified by an oral agreement, that oral modification is not enforceable to change the original written lease. The modification also must be in writing to be enforceable. A modification, such as a change in the price terms, to a lease which has already been in effect for more than one year, is required to be in writing to be enforceable.

When a lease is put in writing even though by reason of the Statute of Frauds it does not have to be in writing to be enforceable, and is later modified by an oral agreement, that oral modification is enforceable to modify the original oral lease. In other words, if a lease was originally in writing but was not required to be, according to the Statute of Frauds, the parties could, by subsequent oral or written agreement, change the terms of the original agreement and neither the original lease nor the modification will lose enforceability under the Statute of Frauds. Of course, evidence of the oral modification may prove difficult when two parties go to court and, perhaps, remember the oral agreements differently.

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The Statute of Frauds does not automatically render an oral lease void, but it may restrict the enforceability of the lease if someone breaches. For leases that do not fall within the Statute of Frauds, it is still prudent to get a price increase or any other modification in writing. Parties should keep in mind that they may not end the business relationship as friendly as it began.

Oral agreements made before or during the signing of a written lease are inadmissible in court. The courts assume that all such oral agreements were "merged" (included) into the written lease. In essence, parties who plan for and do commit their agreement to writing are expected to include in the writing any last minute "side deals" they make before the written agreement is completed and signed. The parties had the initial foresight to record their agreement in writing, in part, to avoid any later potentially competing interpretations of the duties of each party under the agreement should a dispute between the parties arise. Prior to preparing the final written agreement for signing, it would be inconsistent for the parties to simultaneously make oral "side deals" or changes and not include these final changes in the as of yet unwritten agreement and by doing so jeopardize the advantage of clarity they intended to obtain with a written agreement.

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