

## The Buyer's Due Diligence Checklist

1. A priority item on any transaction will be the quality of the soils on the acquisition target. Soil samples and analysis are available from County Extension Services and Texas A&M resources.
  - a. If soil samples reveal less than desirable soils, what is the annual cost of fertilizing and otherwise improving the soils?
  - a. What will the cost to the operator be if substandard soils are present, e.g., in lower hay quality or lesser quantities produced? Or in lower foraging ability for cattle?
2. Does the property show any observable evidence of flooding? Can livestock access feed and water sources when water is at high levels?
3. Where are feed storage facilities? Convenient to where must feed be put out for livestock?
4. Are livestock water sources susceptible to running dry during drought periods? Are feed sources at risk during periods of little rain (either on-site or off-site)? What is the local market for hay, in good times? In bad times?
5. What are the surrounding uses? Any potential uses that would be considered a nuisance or a trespass? Are such uses protected by the Texas Right to Farm Act? (Consider air quality, run-off issues from neighbors, proposed highways, and potential for commercial development.)
6. Who is the commercial source of electricity? For internet?
  - a. Who do you contact for cutover to the new owner?
  - b. Do any proposed operations of the buyer require uninterruptable sources of power?
  - c. Do backup generators exist? Should they be considered if rural power sources are interrupted?
  - d. What are the costs of utilities provided to the property?
  - e. Is the owner required to join utility cooperatives or utility districts?
  - f. Are any assessments pending? Are any prior assessments being paid off over time?
  - g. Will the buyer work at home and need access to "always-on" internet service? What is the speed of what's available?
7. What is the primary water source?
  - a. If on-site wells, when were they last serviced? How deep do they go? If multiple levelsof water, is one level better for human use and one better for livestock? When were the wells drilled and/or pumping facilities built?
  - b. Which underground aquifer do the wells access and what is the long-term health of that aquifer?
  - c. Are any filtering systems or storage tanks present? If so, what condition are they in? (Metal storage tanks are always in various stages of rust and deterioration.) Strongly recommend professional inspection of water wells and recommend water samples be taken.

8. What is the source of natural gas, propane, etc.? Are their on-site tanks, i.e., propane, gasoline, diesel, what is the amount of fuel present? Inspected recently? Any visible spills? Condition of storage tanks?
9. What is the source for the disposal of sewer items? Septic system?
  - a. Type? Age?
  - b. When last serviced?
  - c. Does it comply with county standards? Inspection is strongly recommended.
  - d. What is the capacity? Adequate to handle the expansion of residence?
10. How accessible are the physical transmission means of electric, phone, cable, and internet services? Where do they come onto the property and how easily are they serviced?
11. What are the property taxes for the property? Obtain property tax statements. Are different parts of the property treated differently, i.e., open-space valuations? Is there any evidence of the prior owner's application for special valuations? Does the property's current use meet the "use intensity" test that may be applied to determine "open-space valuation?"
12. Is there any roll-back exposure for property taxes due to a proposed change of use? Will the local appraisal district require reapplication for open-space or ag-use valuation?
13. What is the financial condition of the agricultural operations occurring on the property?
  - a. Successful cattle operation or only "hobby farming?"
  - b. Profitable recreational leasing for hunting purposes?
  - c. Obtain financial statements.
14. Any existing hunting leases or ongoing recreational uses? Are they in writing? Is insurance by users up to date? New certificates issued to buyers?
15. Are profitable operations dependent on government programs, and annual grants? Are they transferrable? Has the operation been compliant with program requirements?
16. What residential structures are present? What condition are they in? Obtain inspections by qualified inspectors. (Condition of HVAC and other systems, presence of lead paint or asbestos, condition of roof, floors, appliances, etc.) The age of such systems is critical to evaluate.
17. What restrictions or covenants apply to the property? Recorded covenants? Reservations or restrictions in prior deeds? Any proposed uses of buyers that may violate any such restrictions?
18. Is the property subject to any liens that may not be released at closing? Any local paving liens? Any mechanic's liens or other agriculture liens due to prior operations or activities on the property?
19. What liens, title issues, and recorded instruments apply to the residential structures?
20. What school district(s) does the property reside in?
  - a. Will the school bus run to the property? Time of day?
  - b. What is the "commute" to school for younger children?
21. What is the status of roads?
  - a. Who maintains the roads?
  - b. Are any pending special assessments for road construction applicable to the property?

- c. Are roads paved to the property boundary?
  - d. What is the possible winter condition of roads and accessibility to school and town?
22. Any pending condemnation proceedings regarding pipeline installation? Are any awards made but unpaid? Who gets these? Do Pipelines benefit this property or simply transmit items across the property?
23. What surveys does the current owner have?
- a. What is the cost of obtaining an updated survey and a proper surveyor's certificate?
  - b. Age of survey of the seller and possible changes since prepared?
  - c. Examine every item noted on the survey.
24. Do any of the following apply to the property? Ingress/egress easements (and where are they located), boundary line agreements, hunting leases, grazing leases, crop/harvesting agreements, oil and gas leases or other instruments, and utility easements.
25. Does the seller have any prior appraisals? Will the buyer obtain a new appraisal? Of land only or also of operations?
26. Any visible or apparent violations of laws or regulations? Has the seller received any notices of any violations?
27. Are any permits/licenses required for operating or conducting certain agriculture operations? If the proposed or continued agriculture operation is a commercial operation, what requirements are there to transfer any such permits? (Waste disposal permits and plans are required for certain operations.)
28. Are any applicable government programs, set-aside programs, or conservation easements applicable to the program?
29. Is there any oil and gas production ongoing? Where?
- a. Does it interfere with crop areas?
  - b. Is any seismic or drilling activity present?
  - c. What minerals are transferable?
  - d. Who has "executive" rights to further leasing?
  - e. Who receives bonus payments when new leases are signed?
  - f. Are any royalties presently being paid on current production?
  - g. Any shut-in wells or well sites that haven't been cleaned up and equipment removed?
30. Are there any pipelines on the property?
- a. If so, will they interfere with any proposed construction or farming activity?
  - b. Are they located within recorded easements?
  - c. Are there any above-ground valves or compressor equipment?
  - d. Any above-ground pipe that should be buried in easements?
  - e. On the survey is there any evidence of buried pipe that may not be within easement boundaries?
31. Are there any visible roads or other evidence of ingress/egress from adjoining properties?
- a. Are there any gates in common fences?

- b. Who has locks?
- c. Any common driveways?
- 32. Is there any proposed oil/gas development or saltwater disposal facility in the area?
  - a. Look several miles around the property.
  - b. What abandoned sites or equipment are located on the property?
  - c. Any evidence of any mining or quarrying?
- 33. What are the conditions of fences?
  - a. Are fences on the property lines?
  - b. Do any fences cross creeks or high-water areas? If the water is up, can cattle get out?
  - c. Do any fences catch brush, trash, etc. in high rains?
  - d. If any fences need to be built, will neighbors share in costs and labor?
- 34. 35. Are there visible landfills, dumpsites, underground tanks, or containers?
  - a. Any visible contamination areas?
  - b. What about unusual trees or grass appearance?
  - c. Presence of spills?
  - d. Any possible leaks from “bum pits” or “dumps” into stock tanks or creeks?
- 35. 36. Obtain a listing of all prior uses as far back as possible. Talk to neighbors and ask their recall about the property.