

Tips for Working With An Estate Planning Attorney

When should I start?

It is never too early or too late to get started. **So now is the best time to start!** Land is treated as a different asset than the other assets you might have (like insurance policies, retirement accounts, etc.) and therefore needs to be specifically addressed in your estate plan. You will need to find an attorney who has experience working with woodland owners. Someone who understands what needs to be done to ensure the legacy of your land and can make recommendations to achieve your long-term goals.

Are estate plans expensive?

There is no one answer for the question of how much an estate plan costs to develop. It all depends on the complexity of your estate and what your long-term goals are for your land.

But remember, no matter what, there will be a cost for your estate plan. You can either spend the money up front to develop a plan that works for you and your goals. Or if you don't, then the next generation will spend the money to do the planning. Often times the next generation will have to spend more money and require more attorney hours to settle your estate. Is that the burden you want to put on your next generation? Or do you want to leave a plan that they can implement, saving them from the stress and confusion around trying to figure out what you would have wanted.

What should I look for in an estate planning attorney?

An estate planning attorney can help you develop an estate plan that works for all your assets, including your land. Your attorney will need to be in the state where you have your permanent residence and will need to have experience developing estate plans for woodland owners. If your land is in another state, then you will need to have a second attorney in the state where your land is located who can help with deed or land transfer work. But your primary attorney should be in the state where you reside.

Where do I find an estate planning attorney?

1. Talk to your neighbors, professional advisors, and colleagues. Ask if they have worked with an estate planning attorney. Did they have a good experience? Would they recommend the attorney they worked with?
2. Ask your forester, he or she might have some recommendations or know landowners you can talk to.
3. Check with local landowner organizations like your state Tree Farm program or woodland owners groups. www.treefarmssystem.org/state-tree-farm-programs
4. If you know an attorney that you like, but who is out of your state or might not have the experience you need, ask them if they know of someone who fits what you need. Many times they are part of national groups and know of other attorneys through those networks.

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And remember to always check with your state bar association to make sure that the attorney you are interested in is licensed and in good standing: <http://www.statebarassociations.org/ba.htm>

What should I ask about when interviewing an estate planning attorney?

Before you set up a meeting, you'll probably want to have a phone conversation or perhaps reach out via email. Here are some questions you might want to ask:

1. Specific experience working with landowners on developing their estate plans, especially landowners who have working woodlands or farmlands.
2. What is the process to develop an estate plan?
3. Approximately how many meetings would an average landowner expect to have?
4. What would be the timeline for an average landowner?
5. What is an estimate for the fee to create an estate plan for an average landowner?
6. Do this attorney have tax experience? They should be familiar with state and federal estate tax laws and regulations.

What to do one week before my first meeting

One week before your first meeting, consider emailing the following documents to your attorney. The benefits of sending this information is that it can save time and money, while also helping your attorney prepare for your meeting. This information can help jump start the meeting and make your planning process more effective. Share your:

1. Forest property and estate overview Worksheet: www.mylandplan.org/create-estate-overview
2. The story of your land: www.mylandplan.org/legacy-worksheets
3. Your heirloom scale: www.mylandplan.org/the-heirloom-scale
4. Your long-term goals: www.mylandplan.org/long-term-goals

What to bring to my first meeting

1. Copies of deeds, leases, contracts related to your land.
2. Tax return for the land or any current LLCs or partnerships that you might have.
3. Beneficiary designation for insurance and retirement accounts.

Who should attend that first meeting?

Generally it is recommended that the primary owner(s) or the senior generation attend. For example, if your land is owned by you and your spouse, then both should attend the first meeting. You might consider including the next generation in future meetings. But for the first meeting it is a good opportunity for the current owners to talk about their long-term goals, their estate and any related issues confidentially with the attorney.

What to expect during the meeting

Your attorney will talk about the different options available to you and for your estate. Sometimes this information can be technical and there might be several different options presented. The best thing to do is to request a summary recommendation letter from your attorney that outlines:

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1. What your attorney recommends for you
2. The cost to develop
3. The timeline

Having this letter will help you research the recommendations and discuss them with your spouse/co-owners to help you make a decision about next steps.

After the meeting

1. Assess how the meeting went, to make sure you feel comfortable and you feel like you can trust the attorney.
2. Your attorney should follow up with the summary recommendation letter. Review this letter and see if it makes sense for you and your goals. If you want to do some additional research on what was recommended, you might check out some of the resources available online: www.mylandplan.org/pass-it-on
3. Talk to your next generation about what they want in relation to your land. Consider asking them to complete the heirloom scale: www.mylandplan.org/the-heirloom-scale. Remember that some of your heirs might not be interested in your land and this could affect how you set up your estate plans.

What if the meeting doesn't go well

Sometime after meeting with an attorney, or any professional for that matter, you might feel like this person is a not good fit, for whatever reason. For something as important as your estate plan, you want to find someone who you trust and feel comfortable working with. If you don't feel that you have met that person, then keep looking for another attorney. The attorney will understand if you decide not to establish a working relationship.

Things to think about

- Think about what fair versus equal means for you, your family, your estate, your land and the relationships between your heirs. If you transfer your land as a tenancy in common, then your heirs would be business owners together and share personal liability. Your attorney can help you understand the options, the pros and cons, and what makes sense for you and your heirs.
- Be patient, this is a process and will take some time.
- Be open to different scenarios. You might have an idea of what you need/want but your attorney might have some new ideas for you to consider.
- Be sure to communicate with the next generation. Share your goals, find out what they think about your land and talk about the estate plan after it is developed.
- You might need to work with your financial planner to develop some of the documents needed for your estate plan.

After my estate plan is in place

Consider getting a property insurance audit to insure that you have adequate insurance for your land. If you have created an LLC or trust, then you might need a new insurance policy.

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Depending on your plan, you might have actions that you need to take in the coming years. For example, perhaps you will be gifting a percentage of your land. Be sure to check your estate plan annually to make sure that you are still on track.

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