

Is An Equal Distribution of Property A Fair Distribution?

Doug and Alice Tanner, now in their late 60's, have worked hard to build the family farming operation. Doug started farming with his father and inherited a few acres. The operation has grown substantially due to Doug's management skills and the couple's heavy reinvestment in the farming operation. Doug and Alice feel strongly that the farm should be kept in their family.

Accordingly, Doug and Alice were pleased when Jack, who is now 45, expressed an interest in continuing farming after he graduated high school. For the first few years, Jack worked for a salary. He had no capital to contribute to the farming operation, only labor. Jack and his wife eventually bought some land. Jack and his parents continued working together. Jack helped his parents work their land and was able to use equipment, buildings, and grain drying and storage facilities without charge. Jack also rented about 25% of his parents land at below market rates. As equipment wore out, Jack began to replace some of it. However, Doug and Alice co-signed on the most expensive machinery.

Doug and Alice have been gradually phasing out their direct involvement in the farming operation and about four years ago sold 70% of the land, the bulk of the farming operation, to Jack at 85% of the appraised value on a 20 year land contract at 4.5% interest. Doug still helps Jack work all of the land but doesn't put in the grueling hours that he used to. Doug and Alice are looking forward to retirement. Over 85% percent of their assets were tied up in the farming operation. Accordingly, they are funding their

For more information, contact the Fraleigh Law Firm, PLLC, at 1-800-928-0034



retirement primarily from the sale and lease agreements with Jack. They believe these funds will be sufficient as long as Jack is able to maintain the farming operation and make all payments as agreed.

Jack's siblings, Lisa (48), John (43) and Lorraine (38), all work off of the farm. Neither Lisa nor John asked for or received much assistance from their parents. Lorraine received substantial assistance with her college education. Lisa, John and Lorraine have only limited knowledge of Jack's business situation with their parents. They know their parents have tried to help Jack out as much as possible and have generally been okay with that. Most of their information has been obtained from offhand comments and observation. They knew that Jack and their parents had financial dealings with respect to the farm and that Jack had purchased part of the farm. However, until recently, they did not know how favorable some of the terms had been.

Lisa had always dreamed of going to college. However, with four kids and a business to build, Doug and Alice were really pinching pennies. They helped out where they could, but Lisa had to work part time and take out substantial student loans. After college, she put herself through graduate school and now has an executive level job at one of the auto companies. During graduate school, Lisa married the man of her dreams. However, after five years and three children, he and Lisa divorced. Lisa lived frugally, paid off her student loans and saved money for her retirement. However, she is currently worried that she will lose her job with the auto company and doesn't know how she will support her three children and herself if this happens.

After graduating high school, John went to college for a semester but decided it wasn't for him. He quit college, married his high school sweetheart and went to work as a mechanic in a nearby town. Throughout the years, he has worked hard to improve his skills and is now a master mechanic. He likes his work but longs to open his own shop. John and his wife have been saving money for a down-payment but with tighter lending



criteria they are unable to secure a loan. John is concerned that he will miss out on all of the good buying opportunities.

Lorraine went to college immediately after high school. By the time Lorraine graduated, Doug and Alice were in a much better financial situation. Also, because Lorraine was the youngest, there were three fewer people to support. Accordingly, her parents were able to pay most of Lorraine's tuition and living expenses. Although she took out some student loans, Lorraine used the money primarily to finance spring break vacations. Lorraine did not work while she was in college, and it was not necessary for her to carefully budget her money as Lisa had to do. Lorraine and her husband like to travel and have taken several exotic vacations. Although she and her husband both have good jobs, they have found it challenging to save money for retirement.

At a recent family gathering, Doug and Alice informed their children that they had completed their estate plan and would be dividing their assets equally among their four children. They also discussed how their financial arrangements with Jack would help them finance their retirement plans. Both Doug and Alice were surprised by their children's reactions.

Lisa and John felt their parents had favored Jack with significant financial assistance over the years and believed their parents had already transferred a significant portion of their estate to Jack.

Lorraine was concerned that her parents' retirement was so dependent on Jack. She worried that she and her siblings did not have the resources to support her parents if Jack was not able to manage the farm and maintain the land contract and rent payments. However, she felt that Jack had earned more because he and his family always helped her parents whenever they needed assistance.

Doug became angry and stated that it was nobody's business how he managed his affairs and he didn't have to leave anything to anyone.

Please discuss the questions on the following page. Remember, there are no right or wrong answers.

For more information, contact the Fraleigh Law Firm, PLLC, at 1-800-928-0034



Discussion Questions:

- ◆ Do you think Doug and Alice are treating their children equitably? Why or why not?
 - ⇒ Should they consider that Lisa and John had not relied on them for assistance but now might be in circumstances where they need a hand?
 - ⇒ Does it matter that Lorraine benefited from her parents' improved financial circumstances and received more assistance than Lisa or Jack?
 - ⇒ What, if any, impact should the children's spending / saving habits have on Doug and Alice's decision?
- ◆ What should John, Lisa, and Lorraine know about the business relationship between Jack and his parents?
 - ⇒ Should the children's spouses be included in the discussion? Why or why not?
- ◆ Should Doug and Alice make provisions for their grandchildren?
- ◆ Could Doug and Alice have handled the situation better?



FRALEIGH LAW FIRM PLLCTM
Peace of Mind Through Legal Planning

6200 Pine Hollow Drive Suite 200
East Lansing, MI 48823

29800 Telegraph Rd.
Southfield, MI 48034

Phone: 517-372-1305
800-928-0034

E-mail: Fraleigh.Law@FraleighLaw.com
www.FraleighLaw.com