

Land Owners Need More Knowledge Of Property Rights

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Property rights for farm land owners have become much more complex in recent years. During their recent annual meeting, members of the Illinois Society of Professional Farm Managers and Rural Appraisers received important information about farm land owners

legal property rights.

Pipeline Easements. Attorney Barb Taft outlined the legal aspects of easements on farm land, those already in place and any future easements that may be arranged. Underground pipelines are crossing farmland and require easements from the landowner. However, Taft pointed out that there is no standard right of way agreements. The easement should include the substance to be transported, the size of the pipeline, the location of the property, the access requirements, the payment, and any arrangements for termination or abandonment. Any landowner who already has an easement for an underground pipeline should find out what the agreement covers. Any restrictions on the landowner such as landscaping, cropping, or building over the easement area, should be spelled out.

If a landowner is approached to provide an easement for new pipelines crossing their property, he should find out if the company is asking for an option for possible future construction, or has made define plans to route the pipeline and want to sign an immediate easement. The owner should know what compensation is offered, the time schedule as it might affect crop production or damage to growing crops, and set back distance from any buildings, wells, or septic tanks. Possible damage to tiles, soil, or existing structures should also be identified.

Subsidence from underground coal mines. Changes in underground coal mining have caused major problems. A procedure called long wall mining that takes all the coal without leaving underground supports often causes collapse of the land surface leaving potholes or ponds that collect water and make crop production difficult or impossible. Landowners in coal mining areas must determine what they can do to

protect themselves or obtain compensation for damages. Often the coal mining rights may have been sold separate from the surface rights. But coal companies must also have subsidence rights. Land owners must decide how to deal with any future sale of mineral rights if they still own them along with the surface rights.

Wind power equipment. Generating electricity with wind power has brought new revenue opportunities for many farmland owners. But they should be aware of all aspects of the situation when they agree to have wind power turbines on their land. Frequently owners will have an opportunity to negotiate the terms of an agreement. Access roads, amount of land used for each turbine, rights to water for construction, soil compaction, affects on drain tile, and arrangements for future removal and restoration should all be discussed before agreeing to becoming part of a wind power program. Compensation arrangements should also be identified along with any arrangements for adjusting payments over time depending on inflation, power production and other factors that may make changes desirable or necessary.

The presence of wind power turbines spread across productive farmland also place limits on aerial spraying that may be needed for certain crops. Usually a flight zone around turbines will be specified.

These examples that affect the value and productivity of land illustrate the complexity of property rights and what owners should know to protect their interests and the rights of future owners of that land. And anyone planning to buy farmland should also be aware of any easements or other contracts that applied to the previous owner and will apply to the next owner.

Laws will vary by states but where ever you may own or lease farm land, it is essential that you are aware of your rights, responsibilities and possible liabilities. Lands that once were considered only useful for farming now have other competing uses. In the examples listed here, the land may still be used for farming but secondary uses offer additional income opportunities for the owner if the conditions are right and the owner is aware of any legal implications and responsibilities when additional uses are added to traditional farming purposes. Δ

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