

Farm Management

Come to terms with property lingo

LANDOWNERS are often approached by utility companies and other parties requesting to traverse their land in some manner. Terms like "right of way," "easement" and "eminent domain" quickly enter the conversation. It is important to have at least a basic understanding of various terms related to property use to ensure the landowner understands the agreement into which he or she is entering.

An easement gives a person (or company) the right to enter upon and use the land of another person. The person owning the land is the grantor and the person receiving the right to use the land is the grantee. An easement gives the grantee an ownership interest in the land. The grantor typically retains the right to use the land provided it does not interfere with the grantee's easement rights.

For example, a pipeline company buys an easement from a landowner. The pipeline now owns an interest in the landowner's land. The easement will almost certainly prohibit the landowner from constructing any buildings. The landowner can farm the easement and use it for crop production, but he or she will not be able to build a barn on the easement. If the landowner did attempt to construct a barn on the easement, the pipeline would have the legal right to stop the construction.

Selling rights

Remember, an easement is the sale of certain ownership rights by the grantor to the grantee. The price paid by the grantee to the grantor is negotiated, as well as other important terms. Upon agreeing on terms, the grantor signs the easement document, which conveys the ownership rights to the grantee. The easement or a memorandum identifying the easement is recorded with the county recorder so everyone knows an easement exists on the subject property.

Easements are typically permanent until released by the grantee. Easements can usually be assigned or transferred by the grantee to other parties. It is common for utility companies to transfer or sell their easement to another company.

Right of way is often used interchangeably with easement. A right of way is a type of easement usually associated with transportation, like a roadway or railroad. The right of way also refers to the physical land that is subject to the easement. In essence, an easement and a right of way are very similar.

Licenses are another method of transferring rights of land use. Licenses usually give a person the right to use another person's land for activities like recreation or hunting, but not for installing utilities or roadways. Licenses are personal to the grantee (cannot be transferred), not permanent and can be revoked by the grantor. For example, a landowner can provide a license to another person to use his land for hunting, but the grantee cannot transfer the right to another person, and the landowner can revoke the right.



Country Counsel

By ROBERT MOORE

Eminent domain is the legal right of the government and certain utilities to appro-

priate land needed for projects that will benefit the public. The purpose of eminent domain is to prevent one or a few landowners from blocking a project that will benefit society as a whole.

It is best to avoid eminent domain, as it is expensive and the outcome is unknown. A landowner can potentially spend considerable time and legal fees in an eminent

domain action only to have a judge or jury rule in favor of the utility. Utility companies also want to avoid eminent domain, as it is expensive and delays progress. Very few appropriations end up in eminent domain because the landowner and utility company typically understand it is in their best interests to negotiate a mutually agreeable easement.



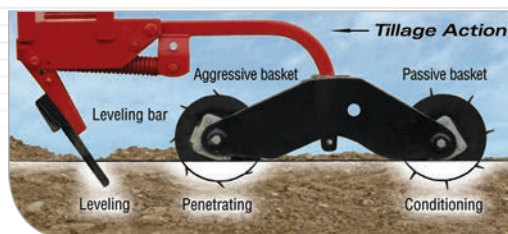
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