

Chapter Two - Basics of Being a Landowner

Congratulations – if you own a piece of Iowa farmland! This is something many people aspire to – and if you are like me, it is a dream you have already achieved. If so, you know the satisfaction and joy associated with being a landowner. You also realize the income it may produce and the wealth it provides for you and your family. The reasons why people own farmland – and the ways they come to own it – are incredibly varied. You may have purchased your land as an investment, you may have bought it to expand an existing farm, you may be a new landowner who wants to farm, or you might have inherited land from your parents or another family member. Regardless how you came to own land there are many important opportunities and obligations attached to it.

If you don't yet own farmland you may someday plan to - or even know you will inherit land at some future point. For example, you may already possess what the law calls a "remainder" interest meaning in the future you will inherit an identified tract of land at the death of a relative, such as a parent, who is the current "life tenant". Life tenancies – known as having a "life estate" – are often created within families for estate planning purposes. They are common between couples with one spouse leaving the land to the other spouse in a "life estate," with the title to the land to pass to identified heirs – usually the children - on the death of the surviving spouse who was the life tenant. If you have this type of remainder interest it is said to be vested – meaning there is nothing anyone can do to terminate or take it away – it will come to you or your heirs on the death of the life tenant – an event that is inevitable. While your interest may be vested – you do not have any current possession or ownership of the property or the ability to control how it is used – instead your interest is contingent on the death of the life tenant. As you can see this also means a person who is a life tenant is limited in their ability to use and dispose of the property. For example, a life tenant can lease farmland to someone as a tenant, and as discussed in Chapter Ten, the tenancy could run until the life tenant's death, *but* the life tenant can not sell the property because the title is subject to the remainder's eventual ownership.

Hopefully this discussion hasn't confused you – but it may help you understand how complicated land ownership interests and property law can be. One of the beautiful things about our American common law legal system is how it gives people the freedom to contract. The courts have been very supportive of people developing legal interests and business relations designed to serve their needs. When it comes to property law this means many of the concepts of ownership – such as fee simple title and leasing – have a long history. It also means new types of legal interests in real property like farmland continue to be developed and evolve as creative lawyers help individuals achieve their goals. For example, one relatively new form of property interest is the conservation easement. These are designed to allow other people to have an interest – typically non-possessory – in land owned by someone else to protect certain natural features or values, such as the farmland not being converted to houses. Conservation easements, which are discussed in more detail in Chapter Thirteen, are now widely used but they have really only come into existence in recent decades.

Who else might have an interest in my property?

When people think about owning land they often assume their ownership interest is exclusive and no one else has any rights to the land. To a certain extent this is true, for example if you own land in fee simple you typically have the exclusive right to occupy and use the property. This is true unless some other type of legal interest has been granted to another party, such as an easement for a neighbor to drive across the land. But if you own a form of legal interest other than fee simple, such as a lease for a period of years or an easement, you can assume there are others who have some form of legal interest in your land.

If we think about the rights of landowners as being about more than simply being able to possess or occupy the land and exclude others, to instead include those who might have some potential legal interest in how you use the land – then the list of people with some type of legal interest in your land becomes quite extensive. It includes, to varying degrees, the following twelve types of interest holders:

- 1) future owners, who have an interest in learning if you have created any hazards on the land, such as disposing of hazardous wastes or improperly sealed wells;
- 2) your heirs, who will be bound by agreements you have entered, for example if you sign a wind turbine easement it may run for 40 years or longer;
- 3) the county assessor, who is interested in you having paid your property taxes;
- 4) a bank or mortgage holder who financed your land purchase, who wants to know you are current on the loans and still own property you used as collateral;
- 5) the county engineer, who is interested in whether you are doing anything to impact use of the roads running adjacent to your land;
- 6) your neighbors, who have an interest in seeing any uses you make on your land do not create nuisances or interfere with their “quiet use and enjoyment” of their land. The same is true concerning your neighbors’ interest in drainage and fence related issues;
- 7) the state or public, which has an interest in you complying with environmental laws such as relating to stream protection, soil conservation requirements, or game laws on hunting and fishing;
- 8) your co-owners, if the land is in some form of joint tenancy like “tenants in common” or held by a trust, there are other people who are co-owners and who may have legal interests similar to yours;
- 9) the tenant, if the land is subject to a lease it means the tenant has a right to use and occupy the land free of interference, for the time period set out in the lease;
- 10) easement holders, if the land is subject to an easement, such as for the utility to run a power line over the property, or for a neighbor to drive across a portion of it to have access to other land, have a right to see their use is not obstructed;
- 11) a local municipality, if you are annexed and within the city limits you may be subject to the zoning ordinance and other land use laws, which may also be true for the county zoning, meaning your ability to use the land will be subject to applicable procedures and limitations; and

- 12) visitors or passer bys, who have an interest in not being injured, such as falling into an unmarked abandoned well, or being bitten by the dog you left in the yard but who chased them down the road.

As you can see from this list there are many other people who might have an interest in your land – or at least in how you use it. But you can also see that many of these interests are reciprocal – just as you have neighbors – you are also a neighbor who enjoys the same interests or forms of legal protections concerning how others use their property in ways that might impact yours.