

FARM LEGAL SERIES

June 2015

Landowner Liability in Minnesota

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INTRODUCTION

Owning agricultural land brings with it certain liabilities that a landowner needs to consider, including liability for activities that happen on your land, activities that happen on a neighboring property and impacts your land, or activities that happen on your land that impacts a neighboring property. These liabilities include negligence by the landowner, dangerous activities of the landowner, and alleged nuisances and trespass activities that interfere with the use and enjoyment of neighboring land.

POTENTIAL LANDOWNER LIABILITIES

Negligence/Duty of Care

A landowner owes a “duty of care” for the activities of individuals who are on the landowner’s land. The “duty of care” requires the landowner to adhere to reasonable standards of care while performing acts that could foreseeably cause harm to the individual. If the landowner does not adhere to these standards and the invited guest is injured, the individual could sue the landowner for being negligent. The landowner has a higher “duty of care” if the landowner invited the individual onto the land. The scope of these activities are broad. For example, a landowner may be held liable if an invited guest is injured on farm machinery.

Strict Liability

Strict liability is a theory of law that allows an individual to sue a landowner when the landowner created a situation that was extremely dangerous and the individual was harmed or injured as a result of the dangerous situation. Typically associated with injuries caused by chemicals or explosives being stored on the property, the landowner may be strictly liable for injuries associated with injuries caused by livestock.

Nuisance

A landowner may not interfere with the use and enjoyment of the activities of a neighbor on the land of the neighbor. This situation usually arises when the neighbor complains of the odor of the landowner’s agricultural operation. The neighbor could sue the landowner under a nuisance legal theory. Although some activities are protected by the Minnesota “right-to-farm” statute that is discussed below, other activities may not be protected.

Trespass

Trespass is when there is an unpermitted physical invasion onto the land of a neighbor that interferes with the property rights of the neighbor. In the context of agricultural production, trespass may include ground water contamination, odors, dust, chemicals, generic pollen “drift” or livestock that goes on to the property of a neighbor.

LANDOWNER PROTECTIONS

Right-to-Farm Protections

It is common for a new neighbor to complain about the agricultural operations of another neighbor. Minnesota has a “right-to-farm” statute that protects agricultural producers from nuisance lawsuits filed by individuals who move next to an existing agricultural producer and later complains and attempts to stop or limit the agricultural operations of the neighboring producer.

Protected Agricultural Operations

Agricultural producers that are protected by the Minnesota statute are producers that have operations used “for the production of crops, livestock, poultry, dairy products or poultry products, but not a facility primarily engaged in processing agricultural products.”

The agricultural operation is protected from nuisance lawsuits if, after two years from its established date of operation, the agricultural operation:

1. is located in an agriculturally zoned area;
2. complies with the provisions of all applicable federal, state, or county laws, regulations, rules, and ordinances and any permits issued for the agricultural operation; and
3. operates according to generally accepted agricultural practices.

Limitations

However, the Minnesota statute does not protect the following:

1. an animal feedlot facility with a swine capacity of 1,000 or more animal units as defined in the rules of the Pollution Control Agency for control of pollution from animal feedlots, or a cattle capacity of 2,500 animals or more;

2. any prosecution for certain crimes of public nuisance of or to an action by a public authority to abate a particular condition which is a public nuisance; or
3. any enforcement action brought by a local unit of government related to certain zoning.

Recreational Land Use Protections

Minnesota law also protects landowners when individuals are given permission by the landowner for the use of the landowner’s property for “recreational purposes” in which the landowner does not charge the individual for the land use.

Protected Recreational Activities

Protected recreational purposes include, but are not limited to, hunting, trapping, fishing, swimming, boating, camping, picnicking, hiking, rock climbing, cave exploring, bicycling, horseback riding, firewood gathering, pleasure driving (including snowmobiling and the operation of any motorized vehicle or conveyance upon a road or upon or across land in any manner, including recreational trail use), nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

Landowner Protections

A landowner that gives written or oral permission for the use of the land for recreational purposes without charging the individual:

1. owes no duty of care to render or maintain the land safe for entry or use by other persons for recreational purpose;
2. owes no duty to warn those persons of any dangerous condition on the land, whether patent or latent;

3. owes no duty of care toward those persons except to refrain from willfully taking action to cause injury; and
4. owes no duty to curtail use of the land during its use for recreational purpose.

Landowner Not Protected from Certain Actions

However, the Minnesota statute does not protect the landowner who gives written or oral permission for the use of the land for recreational purposes without charging the individual for any action that:

1. extends any assurance that the land is safe for any purpose;
2. confers upon the person the legal status of an invitee or licensee to whom a duty of care is owed; or
3. assumes responsibility for or incur liability for any injury to the person or property caused by an act or omission of the person.

Consider a Written Agreement

The recreational land use statute gives some protections to landowners, however, for frequent activities and invited guest or if the landowner is charging the guest for the use

of the land, the landowner should further protect themselves by having a written agreement with the individual that contractually acknowledges the risks associated with the recreational activity and waives any liability of the landowner in the event the invited guest is injured. Even though Minnesota courts have historically construed such agreements narrowly, under a new Minnesota statute, if there is a written agreement, the agreement can protect the landowner from any negligence by the landowner that results in damage or injury to the invited guest.

CONCLUSION

A landowner may be liable for activities that happen on the owner's land, activities that happen on a neighboring property and impacts the owner's land, or activities that happen on the owner's land that impacts a neighboring property. These liabilities include negligence by the landowner, dangerous activities of the landowner, and alleged nuisances and trespass activities that interfere with the use and enjoyment of neighboring land. The landowner should be aware of the liabilities and the statutory protections under Minnesota law in considering how the land should be used.

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