

How To Protect Your Land:

What Landowners Need to Know About Pipeline Easements and Eminent Domain



These days Ohio landowners are facing challenges beyond those posed by Mother Nature. According to the Akron Beacon Journal, there are 133 pipeline projects planned or under construction in eastern Ohio. Dozens more have been announced in other parts of the state. With the drilling and fracking of gas wells comes the need for pipelines to move gas from those wells to natural gas processing plants and ultimately to end users. Thus landowners across the state—even those outside of the shale footprint—are being asked to sign agreements allowing companies to purchase acreage for pipeline construction. It is critical that landowners understand their rights before signing such an agreement. Eminent domain attorneys William Goldman and Michael Braunstein, of Goldman & Braunstein, LLP encourage landowners to hire an expert to ensure their interests are protected, particularly in terms of safety, future land use, future land value and just compensation.

Q. What is eminent domain?

A. Eminent Domain is the power of federal, state and local governments, and even certain private companies, including railroads and some pipeline companies, to take private property and devote it to a public use. Examples include construction of roads, libraries, pipelines, or even an airport. Both the U.S. and Ohio Constitutions provide that property shall not be taken for a public use without the payment of just compensation.

Q. What is an easement?

A. An easement is a limited right to use the land of another for a specific purpose. In the case of a pipeline easement, the company that owns the pipeline needs an easement to bury the pipeline on another's land. Although the property owner still owns the land and is compensated for the easement, the easement can affect the property's accessibility and use, thereby impacting the land's value.

Q. Who is affected by gas pipeline development in Ohio?

A. Typically gas pipelines are routed through rural areas and usually pass through numerous counties. Presently, there are multiple pipelines running across the state of Ohio. A few of the larger pipeline projects include the Rover Pipeline (approximately 600 miles of new pipeline running across northern Ohio), the Open Pipeline (76 miles of new pipeline travelling through southeastern Ohio), and the Nexus pipeline that is slated to run under more than 50 miles of Stark, Summit and Medina counties in Ohio.

Q. Are there risks associated with pipelines?

A. A pipeline can impact the safety of those living on the property, along with their livestock. Cases of pipelines leaking and/or exploding, while rare, have been known to happen. That is why the placement of the easement is critical. In addition, an easement can greatly restrict current and future property and land use rights. For example, property owners are often restricted from building over an easement. This can greatly affect the future use of the land and its value. An experienced lawyer can assist a landowner in easements that protect the property owner and the value of the land over time. Without proper legal protection, a pipeline company will negotiate an easement that is in their best interest, not yours.

Q. Does a landowner have any recourse if they do not want an easement on their property?

A. If a landowner does not want to grant an easement, the pipeline company can take the landowner to court because in Ohio many pipeline companies have the power of eminent domain. However, not all pipeline projects have this power, and state eminent domain power for pipelines varies widely. For example, a pipeline carrying natural gas has the power of eminent domain, but if it carries natural gas derivatives it probably does not. Because this determination varies, consultation with an attorney is advisable.

Q. What if my land has an old easement on it? Can a pipeline company try to enforce it?

A. There are many pipeline easements crisscrossing Ohio dating back in some cases to the early 1900s. It is not unusual for pipeline companies to try to use these old easements to locate a new pipeline. It is also not unusual for the pipeline company to claim that they either don't have to pay additional compensation or that they only have to pay the compensation specified in the old easement – in some cases this amounts to only pennies per foot. The law of Ohio contains numerous protections for landowners who find themselves in this situation. In every case where a pipeline company seeks to enforce an old easement in this manner an attorney should be consulted to determine if the pipeline company really has the rights that it claims.

William Goldman & Michael Braunstein are recognized legal experts for Ohio property owners facing potential eminent domain issues. They are dedicated to exclusively representing landowners. Both attorneys have extensive backgrounds in development, zoning and construction. For more information visit www.Ohiopipelineresults.com or call 888-231-2554.