

The Nuanced Nature of Property Rights in Ohio...

I have been driving back and forth across Ohio often these past few weeks. Frequently driving by yard signs reflecting opposition to utility-scale wind/solar projects as well as yard signs reflecting “My Property, My Choice”. Although I do not begrudge a land owner having the opportunity to pursue leasing their land to renewable energy developers, I just DO NOT agree with those who decide to sign a 20, 30, 40 year lease agreement (which in of itself is extensively more restrictive than any perceived property rights these landowners believe they already have) for an industrial development that commonly brings with it the possibility of multiple adverse effects to the health, safety, welfare of a community. So... who is right?

In the United States, and particularly in Ohio, the notion of property rights often evokes a sense of absolute control and autonomy. However, the reality is far more complex, as property rights are not absolute and are subject to a range of regulations and limitations. This rant explores the intricacies of property rights, zoning, and the required permits that exemplify the balance between private ownership and public interest. A rant from a rural hick, living in fly-over country, and as someone who not an attorney, but merely a layperson with an opinion to share.



Property Rights- A Balancing Act:

While property ownership grants a bundle of rights, including the right to use, exclude others, and transfer the property, these rights are not unfettered. The government retains the power to impose regulations to ensure that the use of private property does not infringe on the rights of others or harm the public welfare. Although not prevalent in Ohio, yet, (hopefully, JP Morgan's CEO – Jamie Dimon doesn't get his way) eminent domain allows the government to take private property for public use, with just compensation, as upheld in *Kelo v. City of New London* (2005). This case highlighted the tension between private property rights and public needs.

Zoning and Comprehensive Plans:

Zoning laws and comprehensive plans are tools used by local governments to regulate land use and guide development. Zoning can dictate the types of structures allowed in certain areas, balancing residential, commercial, industrial, and agricultural needs. The *Village of Euclid v. Ambler Realty Co.* (1926) case was seminal in establishing the constitutionality of zoning ordinances.

Required Permits - Navigating the Regulatory Landscape:

So, believe it or not, property owners in Ohio must often obtain various permits to ensure their land use complies with local, state, and federal regulations... farmers are not exempt!

Here are a few rough examples as to how farmers do not have a choice to do with their property as they wish as governmental restrictions and/or request for permission apply :

- **Environmental Permits:** Protecting local ecosystems, especially from agricultural runoff, requires permits to ensure compliance with environmental standards.
- **Livestock Permits:** Large-scale animal farming operations may require permits to manage waste, noise, and odor, safeguarding community health and environmental quality.
- **Pesticide Application Permits:** The use of certain restricted pesticides necessitates permits to ensure these chemicals are applied safely and do not pose a risk to human health or the environment.

- Permitting for Potable Water Supply (Drilling a well): Ensuring access to clean and safe drinking water often requires permits, particularly when developing new water sources or infrastructure.
- Residential Sewage/Septic Permits: Proper disposal and treatment of sewage are critical for environmental health, necessitating permits for residential sewage systems to prevent contamination.

Grassroots Efforts in Protecting Community Interests:

In many communities, grassroots organizations play a crucial role in upholding the integrity of property rights and advocating for responsible land use. These groups, often composed of local residents, dedicate themselves to ensuring that property rights are respected not only in a legal sense but also in alignment with community values and long-term sustainability. By organizing meetings, engaging in public hearings, and voicing concerns about developments that may impact local resources or quality of life, grassroots advocates bring essential local knowledge to the decision-making process.

These groups serve as a powerful check on projects that might otherwise prioritize profit over public interest, such as utility-scale renewable energy developments or large industrial projects. Their efforts reflect a selfless commitment to preserving not only their property rights but also the environmental, economic, and social well-being of their communities. This advocacy underscores the belief that responsible property use should serve a shared vision of progress—one that considers future generations and respects the fabric of the community.

In a landscape where property rights intersect with public needs and regulatory frameworks, grassroots organizations remind us of the importance of community stewardship, ensuring that development aligns with the best interests of all.

Conclusion:

In conclusion, it is crucial for property owners, including farmers, to recognize that their rights come with responsibilities and limitations. The belief that one can use their land for whatever purpose, such as utility-scale renewable energy developments, without regard for regulations and community impact, is misguided. By understanding and adhering to the laws and regulations governing land use, we ensure that our actions today do not compromise the rights and resources of future generations.

To reiterate, I do not have a law degree, thus not an attorney. For those legal scholars who read this I would be interested to hear how you either agree (which would be

awesome) or disagree. If our opinions differ, I sincerely would like to know why and promise I will be completely civil through our discussion.