



Farm Talk

by
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"No Trespassing" — not a very friendly expression but one that more and more farmers are being forced to use. All along the rural routes these days, you see those signs nailed on trees and fence posts bearing such messages as "No Trespassing," "Posted," "No Hunting or Trespassing," "No Admittance," and so on. Whatever the wording, the signs are there to remind folks that landowners have certain rights. The signs are part of the landowners' legal way of protecting those rights.

Across the land, courts have ruled that property owners have the right to defend their property. Part of that defense is to tell people they're not welcome. The courts have also ruled that because a farm is posted doesn't mean the landowner has the right to shoot trespassers or otherwise exhibit "excessive force." They have clearly said that farmers have the right to protect their property from outsiders. But there are some rules farmers must follow in their dealings with invaders or potential invaders.

A recent North Carolina extension publication deals with the general subject of law and the landowner, listing some rules and regulations as they apply in that state. Granted, there are differences between states, but in general the laws of trespass hold

up throughout the country.

Barrie Stokes, author of the article, says most state laws say a landowner may not willfully or wantonly injure a trespasser. However, as a general rule, the landowners owes only a slight duty of care toward a trespasser. What that means is that a landowner doesn't have to keep his premises safe for a would-be trespasser or provide warnings about dangerous conditions the trespasser might encounter. Courts in that state, for example, have refused to impose liability for the drowning of a trespasser in an unguarded excavation pit. They also disallowed an injury claim sustained by a trespassing motorcycle rider who drove at high speed into a cable stretched across a farmer's driveway.

In that case, the court said the landowner did not act willfully and wantonly when he installed the cable to prevent trespassing.

Stokes believes the key point in the eviction of a trespasser is whether the amount of force used was or was not excessive. In general, the use of deadly force may be justified to repel an attack upon the landowner's person but would be justified to evict a trespasser causing no serious harm to trespasser or property.

What about the trespasser who refuses to leave the premises after

clear? In that case, Stokes thinks the farmer would be well advised to call law enforcement authorities for assistance, because any threatening act that might include deadly force could be turned against the farmer in court.

A doctrine called "attractive nuisance" is a long-standing exception to the rule that landowners owe trespassers only the duty to refrain from actively harming them. Stokes says the law recognizes that a child who goes on land without legal rights or permission is a trespasser. But because that person is a child can't be expected to exercise the care of an adult. So the law imposes liability on the landowner for injury to a trespassing child resulting from a dangerous condition on the property.

The "attractive nuisance" doctrine usually involves only very young children who, according to Stokes, cannot comprehend an apparent danger. And, he says, the landowner would probably be held liable only if it is not economically feasible to prevent access to the condition or to render it safe without frustrating the purpose for which it was intended.

North Carolina courts have rules that natural bodies of water such as streams and brooks do not constitute attractive nuisances. Even an unenclosed irrigation pond is not an attractive nuisance

if the landowners warns neighbor children and their parents to stay away from the pond. But merely posting a no trespassing sign probably does not constitute adequate warning, according to the expert.

When it gets down to it, dealing with trespassers involves common sense and good judgment. The courts aren't apt to rule against a farmer who has used reasonable care and has tried to keep his property safe. On the other hand, the farmer who shoots an unwelcome hunter just because he wandered past a no trespassing sign is probably in trouble.

There was a very famous case a few years back in the midwest where an unoccupied rural residence was robbed several times. The owner allegedly rigged a shotgun to fire when the door was opened. The invader was subsequently injured and sued the property owner. In that case the courts ruled in favor of the injured party even though he was in the act of committing a crime because of the unnecessary force involved. It was the court's judgement that the intruder was not harming a person, and therefore deadly force was not justifiable.

More and more farmers seem to be posting their property as a means of discouraging trespassers and avoiding some of the problems brought on by unwelcome guests. That may mean some of the

neighborliness has left rural America as farms get larger and more businesslike. But on the other hand, there are still plenty of farm people who like company, who welcome visitors and who don't mind someone hunting on their property with proper permission. Rural America isn't closed to city folks. It's just that farmers are being a little more careful about who is welcomed and who isn't.

Maryland market list available to growers

Maryland fruit and vegetable growers may be interested in a list of over 36 regularly scheduled farmers markets operating in their state.

The markets are listed by county, and detail their locations, dates and hours and gives the name and telephone number of the contact person for each market so that prospective sellers can learn further of the market fees and regulations.

If you are a farmer or gardener and would like a copy of the 1984 Farmer's Market List, send a self-addressed, stamped, business size envelope to: Market List, Maryland Department of Agriculture, 50 Harry S. Truman Parkway, Annapolis, Maryland 21401.



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