

WHEN A LANDSMAN COMES KNOCKING

What happens when a landsman comes to your door asking you to sell him an easement to your property? What is a landsman, anyway? And is it a good idea to give him what he wants, and to negotiate the easement yourself?

A landsman is essentially a door-to-door salesman, trying to sell you something that you may or may not want, and that you certainly hadn't gone asking for. What he wants to "sell" you is the idea that you should give him a portion of your land as cheaply as he can possibly get it, while he secures the best advantage for the company that employs him. Landsmen are highly skilled salesmen who are very persuasive and personable, and they will assure you that this project is for you, that you are getting a great deal, that your neighbors have all signed on, that his contract will protect you adequately, that you will reap many advantages, and that he is offering a fantastic price for something you aren't using anyway, and you still get to own the land.

If you do decide to grant an easement, should you negotiate it (you, an amateur) yourself with the landsman (an expert)? Answer: NEVER! A company that wants your land wants to maximize its profits by making big \$ while giving you little \$, and it will give you as little for the easement as it possibly can, even if it is being touted as a great amount. It will never be a great amount if you take a buyer's word for it.

And what about pitfalls - are there any? Short answer: YES! Most easement contracts, unbeknownst to you, leave you LIABLE while asking you to relinquish control over your land. What if what the company does within the easement has negative effects on your land: erosion, increased drainage issues, loss of right to construct a building, or a high voltage power line right next to your home or over your barn? Your property value may drop and uses that you had envisioned for your land may be gone forever. What if they cut down your woodlot – is that the purpose you want for your land and do you really get no extra pay for that? The answer to these questions should be obvious: never, ever, ever, negotiate an easement yourself.

As Attorney Chris Denton of Elmira, who has worked extensively with landowner coalitions, puts it “ *A powerline easement is a complex business transaction masquerading as a lottery ticket....Remember that this easement is forever, and although you own the land, the company can tell you what you can't do on it in the easement area.*” Attorney Denton has also described the “*Flashbulb Effect: The fast talking landman and his offer of up-front money can easily seduce you into signing a pipeline easement, bad for your land and the purpose for which you own it. Everyone has a point where the money has reached an amount so high that the landowner no longer cares what the pipeline terms are. He or she will sign the industry's easement. We have named this condition The Flashbulb Effect, because the landowner is blinded by the money and can no longer read the pipeline easement nor wants to.*” (Italicized text copyrighted by Christopher Denton, 2018)

And if it is not written in the easement, it doesn't matter what the landsmen told said. Always, always seek legal assistance with an attorney who is versed in easements before signing any such document. Don't be blinded by the Flash Bulb Effect, only to regret it as time goes on.

Lee Miller, attorney
McGraw, NY