



Land Facts

THE LORANDA GROUP, INC.

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AGRICULTURAL REAL ESTATE BROKERAGE, AUCTIONS, ACQUISITIONS, AND CONSULTING

The Loranda Group, Inc. is a diversified agricultural services firm headquartered in Springfield, Illinois and licensed throughout the Midwest. The company offers personalized, professional services in agricultural real estate brokerage, auctions, acquisitions, and consulting. Land Facts is published periodically. We welcome your comments and questions, or give us a call if you would like to discuss the farmland market in your particular area.



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A Small Investment in Time Can Pay Big Dividends

By John D. Moss, President

In my 20 years in the real estate business, I have had the opportunity to work with a wide variety of clients. Some have been extremely knowledgeable regarding their properties and the real estate marketplace in general. Others, unfortunately, are very naive. My goal in the next few paragraphs is not to disparage those who aren't as savvy as perhaps they should be regarding their asset, but to give some suggestions regarding how they can become better informed.



From a practical standpoint, it is challenging for some landowners to stay abreast of the changes in farmland prices and to understand what specific factors give land its value. Many owners live out-of-state and have inherited their holdings without ever seeing them. I've heard more than one person say "I don't care how much I earn, I just don't want to ever have to send any money to support the place." They have no idea what their land is worth, and have even less knowledge of what their asset should be returning each year. If the lease reflects current market conditions, then the farm has probably been generating enough income for an annual distribution—and the owner is thrilled! However, I find this approach to asset management a little unsettling, especially considering how much the land asset may be worth. And this is probably quite a different approach than that of someone who had inherited a stock portfolio with the same value.

To illustrate my point, let's consider three situations that I have encountered recently:

Case 1: A landowner in California owns 160 acres in west-central Illinois and calls to get information about selling her farm. She has offered the farm

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The Real Estate Corner

It seems that everyone has been focusing on what land has been selling for recently. However, it's important to remember that there is a

lot more to the real estate asset than what it may be worth. In this issue of *Land Facts*, we'd like to take a closer look at two issues that can have a significant effect on the value, enjoyment and use of property yet are frequently overlooked by buyers and sellers.

Easements

In its most basic form, an easement is the right to use someone else's land for a particular purpose. An easement can be private or public, depending on the parties involved. Perhaps the simplest example of a *private* easement would be the right of your neighbor to use your driveway to access his or her property—an easement of ingress (entrance) and egress (exit). It's important to understand that with a private easement, both parties have certain rights and responsibilities. These rights should be specifically outlined in the easement document so there is no confusion in the future as to what is permissible under the terms of the

agreement.

There are also several different types of *public* easements—the most obvious example is a utility easement. A utility easement often is negotiated directly between the landowner and the utility company. Or, if the two parties cannot come to an agreement, the utility company can obtain an *easement by condemnation*. This process is often used by governmental or quasi-governmental

This easement is not necessarily created to benefit a particular parcel of land, but rather it benefits an individual person. For example, Mary Smith can give Bill Jones the right to use her driveway for the remainder of Bill's life. Once Bill is gone, however, the easement terminates—and anyone who buys Bill's land will not be guaranteed the same rights that he enjoyed.

Easements can have significant



bodies through the power of eminent domain (government taking for the public good). Courts of law in many states can prescribe an *easement by necessity*. This occurs when a parcel of real estate is "landlocked," and the courts rule that the owner of the property is being kept from full use or enjoyment of the parcel. In this case, an easement can be granted across a neighbor's land for ingress/egress purposes. Yet another type of easement is an *easement in gross*.

impact on both the buyers and sellers of real property. As a buyer, you need to know what easements, both public and private, are encumbering the property that you are purchasing. For example, it might be helpful to know in advance if your neighbor has the legal right to drive through your front yard. In most states, the local title insurance/abstract company can determine what easements have been recorded, and then obtain the actual copies of the easements for review by

Be sure to check out the "Properties for Sale" link on our web site for current real estate listings and upcoming auctions: www.loranda.com



Loranda Opens Office in Channahon, Illinois

To better serve our clients in northern Illinois, The Loranda Group is pleased to announce the opening of a branch office in Channahon, Illinois. Managed by John Moss, this location will offer brokerage, auction, appraisal, and consulting services. Loranda's experience in marketing transitional real estate, in locating replacement property for 1031 tax-deferred exchange investors, and in working with a wide variety of complex projects, should benefit those individuals in need of sophisticated real estate services. For more information, please call 815-521-4267 or 800-716-8189.

you or your attorney. And as a seller, remember that anytime you grant an easement to another party (regardless how innocuous it may seem at the time), it can significantly impact the value of your property both now and in the future. What's the bottom line? Before creating an easement on your property or purchasing property encumbered by an easement, make sure that both you and your legal counsel read the fine print very carefully and understand all of the possible ramifications of the easement.

Farm Lease Terminations

The next topic we'll discuss is farm lease terminations. Each state has its own lease law, and for the purpose of this article, we are focusing on lease laws in Illinois. In its simplest form, Illinois lease law states that landowners must notify their tenants at least 4 months prior to the end of the lease year in the event that they: (i) will not be renewing the lease with the tenant, or (ii) will not be renewing it under the same terms and conditions of the existing lease. For people considering

a *sale* of their land, or for those who wish to change the *terms* of the existing lease, this point is **critical**. For example, if your lease year ends on December 31, notice must be given by August 31. Or if the lease year ends on February 28, notice must be given no later than October 31.

Keep in mind that the landowner cannot simply pick up the phone and call their tenant to let them know that they won't be renewing. Illinois law requires that the termination notice be in writing and include specific information including the tenant's

name and last known address, the date the lease is to expire (end date), a legal description of the subject property, and the landlord's signature. The notice can be personally delivered (where you can get the signature of the person acknowledging receipt of the notice) or sent by certified mail (which requires a signature acknowledging receipt). If you have any concern about the proper mechanics for terminating a lease, we strongly recommend that you contact appropriate legal counsel.

You can also visit the web site of the government office that oversees lease terminations in the state where your property is located, or the web site of the land grant university that provides agricultural research in your state.

And finally, though some leases are written to be self-terminating, it is still better to be safe than sorry—send a formal written lease termination notice. By not giving proper notice, you may find that your options to make changes are severely limited. And this simple oversight can significantly affect your bottom line.

On August 6th, the National Agricultural Statistics Services published their annual report on average farmland values across the U.S. Following are the results from some selected states:

	2003	2004	%Change
Corn Belt:	\$2,130	\$2,300	+8.0%
IL	2,430	2,610	7.4
IN	2,570	2,770	7.8
IA	2,010	2,200	9.5
MO	1,470	1,580	7.5
OH	2,740	2,930	6.9



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to the tenant for \$2,400 per acre because “that’s all he thinks he can pay.” Several recent sales in the same township indicate that the property is worth at least \$3,600 per acre. Needless to say, the tenant took the offer of \$2,400 per acre.

Case 2: A landowner in Tennessee owns 200 acres in southern Indiana. He is demanding \$2,000 per acre for the farm because a recent university study said that average land in SE Indiana was selling for \$2,000 per acre. Unfortunately, research demonstrates that land in the area where his farm is located is significantly less attractive and is worth no more than \$1,250.

Case 3: A landowner from the east coast owns 80 acres in east-central Illinois. He has heard that “good land in Central Illinois is trading hands for \$4,500 per acre” and he is ready to sell at these prices. Yes, there have been sales at these price levels in central Illinois. However, these are “A” quality farms that are well drained and all tillable. This person’s farm consisted of “B-C” quality soils, was poorly drained and in need of tile, and was only 85% tillable.

In all three cases, these landowners weren’t trying to be foolish. They simply had no idea what their real estate might be worth. More importantly, they hadn’t done any research to educate themselves regarding their property and its marketplace.

So, what should these people have done? One obvious alternative would be to hire an appraiser to value their property. However, many people don’t want to go to this expense, and in some cases they don’t need to if they are willing to do some leg work. At Loranda, whenever we talk with a prospective client about selling land, we complete a series of due diligence steps, similar to what an appraiser might do. Let’s consider two major areas of due diligence—**Property Due Diligence** and **Market Due Diligence**. Landowners may benefit from collecting similar information toward developing a full understanding of their own properties.

Property Due Diligence

This research can best be described as learning what the physical features of the property are, and discovering any other factors that may affect value. Having this information allows you to start comparing your property with others in the immediate area. Some examples of the type of data we collect for tillable farms include:

1. Number of tillable acres versus non-tillable acres
2. Type of non-tillable acres—pasture, woodland, or waste ground
3. Descriptions of any improvements
4. Soil types
5. Real estate taxes
6. Government farm program information
7. Drainage
8. Fertility

9. Yield history
10. Encumbrances (e.g., current lease status, easements, etc.)

Market Due Diligence

This research is used to support the old adage that the three most important factors that determine real estate value are “location, location, and location.” By combining the information that was gathered during the property due diligence phase with what you learn in this phase, you can gain a more accurate picture of what your property may be worth. Some examples of the data we collect in this stage include:

1. Prices for recent sales of comparable properties
2. Zoning classification
3. Development possibilities
4. Other positive or negative influences (e.g., adjacent to a landfill, several poor crop years in the area, poor weather patterns)

Undoubtedly, this seems like a lot of effort for those who don’t work with real estate on a daily basis. And knowing how to interpret the data that has been collected is not simple either. Fortunately, there are professionals who do this regularly and can provide assistance. It is not a requirement that every landowner completely understand his or her investment. But think how much money and frustration the three owners described in the three case studies could have saved themselves by simply investing a little time and money in educating themselves regarding their real estate asset.