Palo Pinto County Agriculture and Natural Resources Newsletter

TEXAS A&M AGRILIFE EXTENSION

Winter 2018

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Palo Pinto County 4-H and Texas A&M AgriLife Extension Service Palo Pinto County

Court Upholds Finding of Easement by Estoppel

A recent decision out of the Corpus Christi Court of Appeals addresses the requirements to prove an easement by estoppel and offers some good reminders for Texas landowners when dealing with access easements.

Background

This case involves a dispute over a road between two pieces of property, one owned by the Cores family and another by LaBorde Properties. The road had been in place even before the Cores and LaBordes owned the land and was created to allow landlocked landowners with property south of the Cores' land to access their parcels. Testimony showed that prior to the current owners buying the land, the prior owners all used the roadway to access their various properties.

When the current owners purchased their respective properties, an issue arose. The Cores family filed suit to prevent the LaBorde owners from using the easement road to access their property. Cores argued that because the La-Borde property is not landlocked and their property can be accessed from other roads, the LaBorde land was not included as part of the properties for which the easement road was created. The LaBorde owners, in response, argued that the prior landowners had continually had access to the easement road and that due to this access, an easement by estoppel existed.

Easement by Estoppel

Easement by estoppel essentially provides that the owner of a servient estate may be estopped to deny the existence of an easement if certain representations are made and have been acted upon by the other of the dominant estate. In other words, if a landowner upon whose property an easement exists in favor of another makes certain representations regarding the existence of the easement and the person for whose benefit the easement exists acts in reliance of those statements, the landowner may not deny the easement exists.

In order to prove easement by estoppel, the plaintiff must show: (1) representation communicated by word or action; (2) communication was believed; and (3) communication was relied upon.

Opinion

The appellate court affirmed the trial court's ruling. [Read full opinion here.]

Representation communicated by word or action

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UPCOMING PROGRAMS

- **Pesticide Workshop 1/17/18**

5 CEU Program - Palo Pinto County Extension Office from 8:00 a.m. to 3:00 p.m. - Flyer on page 3

Testimony at trial showed that numerous prior owners had used the easement road at issue to access the properties adjacent to the road. The prior owners of the Cores property had never restricted use of the easement to certain landowners, and the prior owners of the LaBorde property had used the easement road without issue. Further testimony of the prior owner of the LaBorde property testified that he was told he could use the easement road and that he had done so for years to access his property. Based on this testimony, the court held that when the tracts were first divided in 1979, both owners understood that the owner of the LaBorde property would be allowed to use the easement road. From 1979-2004, the owners of both properties the easement road was regularly used to access the LaBorde property with no objection from the owners of the Cores property. Because the owners of the Cores property did not challenge the use of the road by the owners of the Cores property for 30 years, this constituted a representation by conduct that the owners of the LaBorde property could use the easement.

Communication was believed

Again, testimony of a former owner of the LaBorde property was solicited at trial. The former owner testified that when he purchased the LaBorde property, he talked to the then-owners of the Cores property and was told that he was entitled to use the easement road. He rebuilt the cattle pens next to the road and used the easement road to move in supplies without any objection from the surrounding landowners. Likewise, when the LaBordes purchased the property, they believed that they had the right to use the easement, as had the prior owners. The second element was satisfied.

Communication was relied upon

Lastly, the LaBordes had to show they (or their successors in interest) relied upon the representation. Again, the actions of the prior owners allowed this proof. The prior owner of the LaBorde property testified that he used the road to access the property and he moved all of the materials for building pens in on the easement road. Further, the prior owner had allowed gravel from the LaBorde property to be used to fix potholes in the easement road, in reliance on the belief that he could use the road himself. Further, at the time Cores bought his property, he knew that the LaBorde owners used the easement road. Thus, the court found that the LaBordes purchased the property in reliance on being able to use the easement road. The court held that both the prior owner and the LaBorde owners had made decisions to purchase, use, and improve the property, based upon the existence of the easement road.

Based on this, the court upheld the trial court verdict finding an easement by estoppel exists and that LaBorde has the right to use the easement road.

Conclusion

This case illustrates that, although rare, easements by estoppel can be proven under Texas law. It is also offers a couple of important reminders for landowners. First, landowners or persons looking to purchase property should identify any existing easements on the land and investigate prior and current uses to know who may claim continued use of roads or other existing easements. Second, easement-users and landowners should both seek to put any easement agreements into writing and record them in the deed records. Had the original owners of the tracts in this case done so, a lawsuit would likely have been avoided. Putting easement agreements into writing ensures that both parties–and any successors in interest who come thereafter–are on the same page about who will be allowed to use the easement in the future. People die or sell land, memories fade, and without something in writing and recorded at the courthouse, this is exactly the type of legal dispute that can arise.

Alert | Texas A&M Forest Service | Tree-killing Insect Confirmed in Tarrant County

December 7, 2018

December 7, 2018 —FORT WORTH, Texas—Reports of the presence of the deadly emerald ash borer (EAB) in Tarrant County have been confirmed. EAB has infested and killed ash trees in the Eagle Mountain Lake area.

Texas A&M Forest Service began investigating within the high-risk area following the discovery of a single EAB specimen last year. Prior to spring adult beetle emergence, the state agency collected larvae from area ash trees. Through positive DNA tests Texas A&M Forest Service confirmed the larvae to be EAB.

All species of ash are susceptible to the destructive EAB. Infested trees die within two to five years after infestation. Urban tree canopy inventories estimate that ash trees comprise approximately 5 percent of the Dallas/Fort Worth urban forest.

“There is no known stop to this epidemic,” said Texas A&M Forest Service Urban Forester Courtney Blevins. “But we can help communities minimize loss, diversify their tree species and contribute to the health and resiliency of their urban forests.”

Emerald Ash Borers (cont.)

Texas A&M Forest Service has resources available to help affected communities identify signs of EAB infestation and symptoms that trees may display, as well as make decisions about preventative measures they can take and tree management and removal.

For more information on EAB in Texas, please visit http://texasforestservice.tamu.edu/eab/.

EAB photos and resources can be viewed at http://ow.ly/LIJi30lbBxz

To report emerald ash borer, please call 1-866-322-4512.

Contacts

Courtney Blevins, Urban Forester in Fort Worth, 817-879-3974, cblevins@tfs.tamu.edu

Allen Smith, Regional Forest Health Coordinator, 903-297-5094, lasmith@tfs.tamu.edu

Texas A&M Forest Service Communications Office, 979-458-6614, newsmedia@tfs.tamu.edu

Pesticide Workshop

January 17, 2019

A pesticide continuing education workshop will be held at the Texas A&M AgriLife Extension Building, 221 S. 5th Ave. in Palo Pinto, Texas. Five Continuing Education Units (CEU's) will be offered to renew Private Applicator's or Non-Commercial Applicator's Licenses (4 IPM and 1 L&R). Call 940-659-1228 or 940-325-3961 for more information. $25.00 fee includes lunch.

Please RSVP to one of the numbers above by January 14, 2019.

Agenda

8:00 a.m.	Registration
8:30 a.m.	Feral Hog Control & Registration for Landowners - Andy Anderson, Feral Hog Control
9:30 a.m.	Prickly Pear, Range & Grassbur Control, Demonstration Updates James Jackson, Texas A&M AgriLife Extension Program Specialist - Range
10:30 a.m.	Break
10:40 a.m.	Pecan Pest Management - Bill Ree, Texas A&M AgriLife Extension Program Specialist - IPM
12:00 Noon	Lunch
1:00 p.m.	Laws & Regulations - Kathy Newton - TDA
2:00 p.m.	Tree Issues & Diseases - Dr. Kevin Ong, Director of The Texas Plant Disease Diagnostic Lab & Professor of Plant Pathology & Microbiology
3:00 p.m.	Evaluations and adjourn

USDA NRCS U.S. Department of Agriculture Natural Resources Conservation Service

conserving natural resources for our future

Texas A&M AgriLife Extension

The members of Texas A&M AgriLife will provide equal opportunities in programs and activities, education, and employment to all persons regardless of race, color, sex, religion, national origin, age, disability, genetic information, veteran status, sexual orientation or gender identity and will strive to achieve full and equal employment opportunity throughout Texas A&M AgriLife.

The Texas A&M University System, U.S. Department of Agriculture, and the County Commissioners Courts of Texas Cooperating

Persons with disabilities who plan to attend a meeting and who may need auxiliary aids or services are required to contact Texas A&M AgriLife Extension Service-Palo Pinto County at 940-659-1228 ten working days prior to the meeting so appropriate arrangements can be made.

TEXAS A&M AGRILIFE EXTENSION

Making a Difference

2018 Palo Pinto County- Cattle In-depth Plan Summary

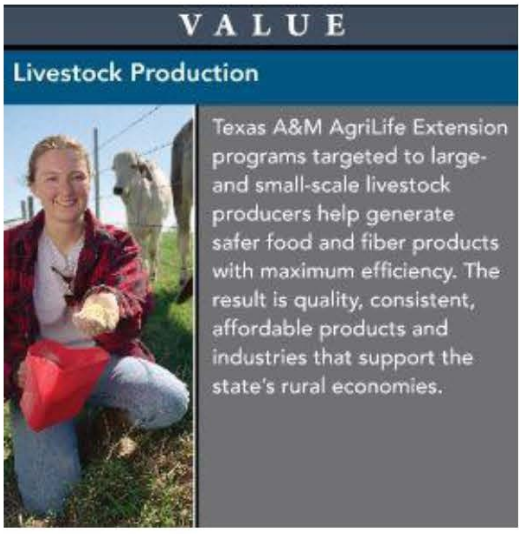
Jason Westbrook- Palo Pinto Ag & Natural Resource Agent

Relevance

The beef cattle market in Palo Pinto accounts for $1,000,000 in revenue for county producers. This information was collected from the 2017 Ag Increment Report. The economic viability of Palo Pinto County depends on this commodity and management options are essential for cow/calf operations. The issues solved within the committee driven program have a future impact on management options available for Palo Pinto producers.

Response

Texas A&M Agrilife Extension and Palo Pinto County developed programs through the work of the Palo Pinto County Ag Committee and direct discussion with agricultural professionals. Programs were developed addressing the needs in cattle management as well as end use of meat products at the time of slaughter. Newsletters to producers with agendas and supporting information are mailed prior to each meeting. Monthly Ag articles are circulated in newspapers to support issues that arise. Quarterly Newsletters were distributed to area producers. Demonstration plots for prickly pear and house fly controls were analyzed and data was discussed with producers.



- Quarterly Newsletters Jan, April, August, November (100 producers)
- Multi County Land Management Program, 2018(40 attended)
- Land and Cattle Program (30 attended)
- Drought Management Program (80 producers)
- USDA Drought Forage Program (26 producers)
- Fly Demonstration (1 producer)
- Prickly pear demonstration (3 producers)
- Quarterly newsletter (100 producers)
- Monthly newspaper articles (16,000 people)
- 3 PAC Meetings (8 members)

Programs were marketed through all means of mass media. Partnerships between the USDA Farm Service Agency, Texas Beef Council, NRCS, Farm Bureau and Texas A&M Agrilife Extension personnel were utilized to aid in planning and implementing all educational efforts.

Results

A retrospective post evaluation instrument was used at the Palo Pinto Land and Cattle Program to measure knowledge gained and adoption of specific program topics. 23 of 30 producers that attended responded to the survey for a survey response rate of 76.7%

Percentage that increased knowledge

Program Content	Percentage at Good or Excellent after the Program
Importance of cattle vaccinations on herd health	63.6%
Issues that arise in the estate planning process	65.2%
Role organic matter plays in conserving soil moisture	52.2%
How cover crops conserve moisture	95.7%
Determining the signs of what predator is effecting your operation	69.6%
How to protect yourself and family from liability issues	90.9%
Effectiveness of various fly control methods	55.0%

Percentage Intentions to Adopt

Practice or Technology that Could Be Adopted	Percent That will adopt
Using vaccinations as part of your cattle operation	56.5%
Use cover crops to conserve soil moisture	82.6%
Use practices discussed for estate planning	73.9%
Insuring and protecting yourself for land liability issues	60.9%

Overall Anticipated Economic Benefit Per Operation based on number of livestock

Per Operation $12,960

Acknowledgements: Palo Pinto Ag Committee, Animal Health, Texas Beef Council, Turner Seed, Helena, Texas A&M, Texas Farm Bureau

TEXAS A&M AGRILIFE EXTENSION

Making a Difference

2018 Palo Pinto County- Horticulture In-Depth Plan Summary

Jason Westbrook- Palo Pinto County Ag & Natural Resource Agent

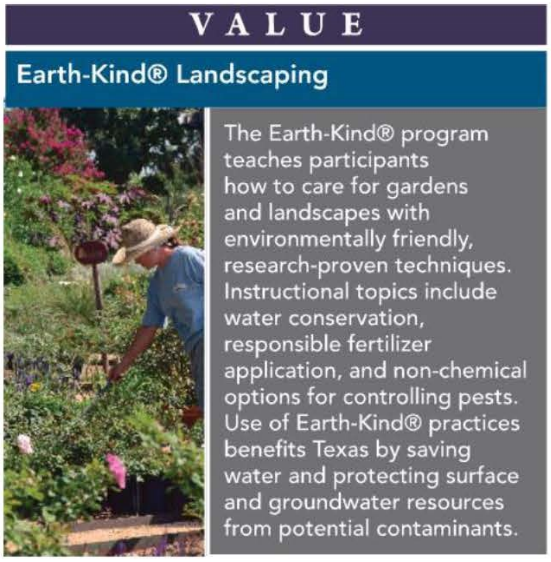
Relevance

Palo Pinto County has a large population of retirees and much of the county is urban which leads to many having a passion for gardening and horticulture. Each year the Extension office receives many phone calls ranging from tree issues to lawn and gardening questions. Horticulture is important in that it represents a large portion of one's property value. Palo Pinto County has a Master Gardeners program which serves as our Horticulture Committee in which many topics can be addressed. Quarterly newsletters are distributed to the Extension mailing list and monthly news articles are distributed to the paper. The economic viability of many local lawn and garden stores depend on the horticulture needs of the community. Therefore, program topics and community needs are addressed.

Response

The committee held numerous work days for community gardens and programs were developed from the committee to address the needs of the community. A 5 CEU program was held. Topics included control burns, mesquite tree and cedar control, laws and regulations, forage insects and new range and pasture herbicides. A program was also developed by the committee to discuss how to make your home a habitat for birds, bees and butterflies. Topics were delivered by committee members and beneficial insects were discussed. Evaluations were distributed and data was collected.

- 5 CEU Program (60 attended)
- Birds, Bees and Butterfly program (18 attended)
- Quarterly Newsletters
- Monthly Newspaper Articles
- Monthly Meetings
- Game On-Relzar khaki weed control demonstration
- Homeowner Calls



Programs were marketed through all means of mass media. Partnerships between the USDA Farm Service Agency, Palo Pinto Master Gardeners, NRCS, Walden Farm and Ranch and Texas A&M Agrilife Extension personnel were utilized to aid in planning and implementing all educational efforts.

Results

A retrospective post evaluation instrument was used at the Palo Pinto Master Gardeners Program, "How to make your home a place for Birds, Bees and Butterflies" to measure knowledge gained and adoption of specific program topics. 13 of 18 attendees responded to the survey for a survey response rate of 72.2%

Percentage that increased knowledge

Program Content	**Percentage Increase in knowledge gained**
How to create a habitat for pollinators	59.0%
How to create a habitat for birds	61.3%
How to create a habitat for butterflies	61.7%
Various plants that can be used in a habitat	53.7%
Food sources for birds, bees and butterflies	53.7%
Various seasons that habitats can be designed	58.7%
Importance of habitat for bees, birds and butterflies and their relationship to agriculture	56.3%

Percentage Intentions to Adopt

Practice or Technology that Could Be Adopted	**Percent That definitely will adopt**
Including native plants in the design of the habitat	53.8%
Changing water sources frequently for hummingbirds	84.6%
Creating shelter through maintaining a brush pile	84.6%
Supplementing a food source for hummingbird and bird feeders	84.6%

No overall Anticipated Economic Benefit was calculated by Texas A&M Agrilife Extension

Acknowledgements: Palo Pinto Master Gardeners, Walden Farm and Ranch, Parker County Master Gardeners, Dow Chemical, NRCS

TEXAS A&M AGRILIFE EXTENSION

Making a Difference

2018 Palo Pinto County- Youth ANR In-Depth Plan Summary

Jason Westbrook- Palo Pinto Ag & Natural Resource Agent

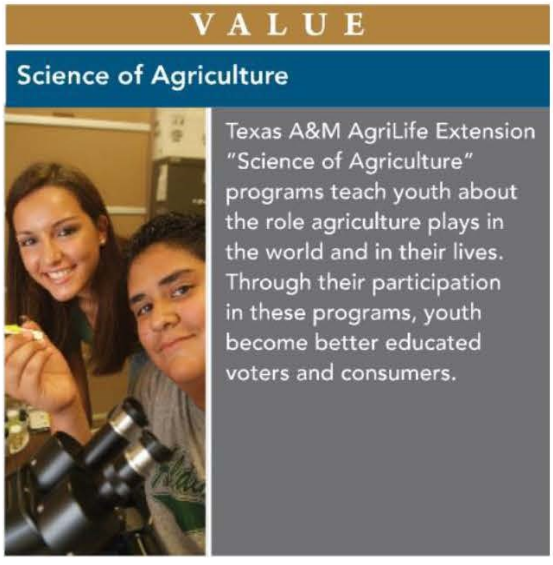
Relevance

The Palo Pinto Youth Agriculture and Natural Resource program is used as a leadership and educational program that teaches valuable lessons in agriculture and youth development. Through the Livestock Coalition group in Palo Pinto that is made up of Agricultural science teachers and Agricultural leaders, agricultural programs were developed. It was determined that showmanship clinics and hay judging would be part of the program. A showmanship clinic, steer fitting clinic and hay judging contest was held for area youth with the help of the Palo Pinto NRCS. Many project shows were also held locally to help in the development of showmanship skills and animal husbandry skills to care for livestock projects. The hay judging contest was developed to help youth gain knowledge when producing or purchasing hay.

Response

The Livestock Coalition put together a showmanship clinic that covered topics such as feeding and care for sheep, goats, cattle and hogs. A showmanship clinic was held for each species by experts in each species field. The steer fitting demonstration was held to show youth and parents how to clip and care for their steers prior to show. Area Ag. Science teachers as well as the NRCS and County Extension Agent held a hay judging contest for area youth. Youth were trained to determine how to evaluate Coastal, Sudan and Alfalfa hay.

- Livestock Coalition Meeting (3) meetings
- Quarterly newsletters and announcements for projects
- Showmanship clinic (700 attended)
- Steer Clinic (20 attended)
- Hay Judging (30 attended)
- Mineral Wells Prospect Show (350 attended)
- Mineral Wells Swine Show (253 attended)
- Graford Stock Show (35 attended)
- Santo Stock Show (30 attended)
- Monthly emails announcing programs



Programs were marketed through all means of mass media. Partnerships between Walden Farm and Ranch, Farm Bureau, Weaver Livestock, Titan Show sticks, NRCS, Mineral Wells Feed, Teskeys and Texas A&M Agrilife Extension personnel were utilized to aid in planning and implementing all educational efforts.

Results

A retrospective post evaluation instrument was used at the Palo Pinto Youth Hay Judging Contest to measure knowledge gained and anticipated changes and economic impacts. 29 of 30 youth that attended the hay judging contest responded to the survey for a survey response rate of 97%.

Program Content	Increase Change In Understanding
Understanding of how to judge maturity of hay	48%
Understanding of how to judge texture of hay	51.9%
Understanding of how to judge the leafiness of hay	55.6
Understanding of how to judge foreign matter of hay	55.6
Understanding of how to judge the color of hay	50.0
Total change in understanding from program	70.0

Intentions to Adopt	Definitely Will
Using judging Techniques to Select high quality Hay	88.9
Using judging techniques to determine when hay is ready to cut and bale	92.6
Keep Hay in a Covered Area to maintain Color	88.9

Economic Value of Program

72.4% agreed that this activity will help them be more profitable or reduce expenses in the future.

Acknowledgements: Palo Pinto Livestock Coalition, Waldens Farm and Ranch, NRCS, Local Ag. Science Teachers, Weaver Livestock, Mineral Wells Feed, Teskeys, Texas A&M Agrilife Extension.