

RURAL LAND PURCHASES

Pause, Inspect and Consider Before Buying

By: Christopher M. Read, Esq.

Beyond the city and suburban sprawl, away from the office parks and shopping malls, there are mountains and rivers, valleys and streams, pastures and meadows, and...

... the home of your dreams? Perhaps.

In rural areas not far, but seemingly worlds away, from the hustle bustle of New York City, large and picturesque properties are being marketed to city dwellers and suburbanites with seductively low prices and promises of easy, carefree country living.

As the serenity of "Walden" beckons with the added allure of no-cost loans and low interest rates, prospective purchasers would be well advised to pause, consider and inspect prior to buying. To that end, this article is intended not at all to be dissuasive, but rather to serve as an encouraging reminder that certain measures should be taken prior to buying raw land if one wants to be sure that the proverbial "country dream home" can, in fact, be built on that seemingly perfect parcel of bucolic land.

Buying and developing raw land can be an exciting, rewarding and profitable enterprise, but many purchasers who are unfamiliar with the intricacies and requirements of improving raw land have come to regretfully discover that a property that appears to be ideally located and enticingly affordable can actually be costly, complicated or even impossible to develop.

Unlike vacant lots in a developed area or an established subdivision where the availability of basic services such as water, sewers and electric is a relatively safe assumption, when you buy raw land there simply are no safe assumptions.

The most basic issue that a potential buyer needs to address prior to buying a certain parcel of raw land is whether there is a proven and reliable source of potable water on the property. Simply stated, if water is unavailable the land may be close to worthless.

Most land in the North East has water located somewhere under the ground and in many rural areas the groundwater is accessed by private well. It is vital to note, however, that wells are usually priced by the foot and the per-foot price can vary greatly depending on the geological conditions of a given property. While it can be relatively inexpensive to draw water from a property with cooperative soil conditions and 20' feet of depth-to-groundwater, problematic soil conditions can push well costs beyond \$50 per foot, a price point which may be prohibitively expensive if water is located 1,000' feet below the ground. Because of these uncertainties, the prudent buyer will condition her purchase obligations on the ability to locate and tap a reliable source of clean water at a reasonable price.

If an adequate and consistent supply of potable water can be accessed, a purchaser must next determine whether the property can support a mechanism to treat wastewater. In rural areas, where sewers and community wastewater treatment facilities may not be available, it is important to confirm that a prospective property can support an adequate septic system. In that respect, the type, cost and location of a wastewater treatment system should be determined before buying.

The type, cost and location of a septic system will be determined by many factors including soil

density, depth to groundwater and the location of the well. It is important that septic systems be located in an area where the soil permits sufficient percolation. If adequate percolation cannot be accessed, alternative systems may be built, but often at great expense in terms of money and aesthetics. Septic system location will also be subject to setback requirements from any well on the property to ensure that wastewater does not contaminate drinking water (expect to find a separation distance requirement of 150' feet). It is also worth noting that soil conditions and setback requirements may impact the location of the eventual house. A buyer looking to build a house at a particular spot on the property (i.e. to take advantage of views or some other characteristic) may find that the preferred location of the house is the only suitable location for the septic system.

In addition to confirming the availability of clean drinking water and effective systems of wastewater treatment, prior to purchasing raw land, a prospective buyer should determine whether utilities such as electric, telephone and cable are available. In this respect, the buyer should locate the nearest electric connection (often, identifying the nearest telephone pole will suffice) and measure the distance from such connection to the preferred site of the future house. Power companies do not usually charge for the first 500 feet of service from the nearest power source to a particular building site (this is a common, but not guaranteed, courtesy), but the cost beyond that first 500 feet can range from \$10.00 to more than \$20.00 per foot. This being the case, a building site located more than a mile away from the nearest electrical connection may come with heavy utility installation expenses.

While utility connections may present some unanticipated costs to property development, wetlands and other bodies of water can restrict or even prohibit development entirely. While an exhaustive discussion of state and federal laws pertaining to wetlands is beyond the parameters of this article, it should suffice for our purposes to generally state that water bodies and wetlands on, abutting or near a property can restrict or even prohibit preferred site locations for desired improvements. Beyond restrictions, the presence of water or wetlands can also trigger the need for additional permits and/or building requirements which can add significant time and expense to the building process.

As the presence of wetlands is not always as obvious as one may suspect, a prudent buyer will seek to obtain an environmental report to identify the presence, not only of wetlands, but also of environmentally hazardous materials that may be on, near or under the prospective property.

Finally, prior to moving forward with a purchase, a prospective buyer should fully familiarize herself with the physical aspects of the property, including geography, topography and the precise location of all boundary lines. The best way to familiarize oneself with a particular property is to work with a surveyor and actually walk the property together while the surveyor determines the precise metes and bounds. Walking the boundaries makes it possible to ascertain whether neighboring property owners are using the subject property for access to their property and whether any structures located on the subject property or the neighboring property extend across property lines. An additional benefit is that a determination of the precise locations and measurements of the property lines will allow the surveyor to calculate exactly how much property is being sold so that the buyer can be sure of what she is buying.

This article attempts to highlight some of the basic issues that a buyer should address before purchasing raw land. It should be noted, however, that the guidance provided herein is general in nature and that every property possesses unique characteristics that may affect potential development. With proper diligence, patience and with the assistance of an experienced real estate attorney, a prospective buyer can avoid costly pitfalls and make an informed decision regarding the viability and expense of improving what appears to be the "perfect" county property.