



KANSAS FARM BUREAU LEGAL FOUNDATION

Choosing the Right Attorney

Part of our mission at the KFB Legal Foundation is to help ensure our members have the right legal advice available to them. We have a lot of resources on our website (guides, handbooks, and checklists, as well as pre-recorded webinars) that we encourage our members to utilize to learn about the legal issues they are facing, or to help spot issues in a contract they are considering. However, nothing can take the place of the advice of an experienced attorney – whether it is litigating an agricultural law issue or drafting, reviewing, and negotiating a contract. It is even more helpful if that attorney is familiar with agricultural practices that could be impacted by the outcome of your contract or controversy.

How to find / choose the right attorney:

In many cases, your local attorney will have the knowledge and experience necessary to help with your legal needs, or they know someone who does. It is always appropriate to treat your hiring of an attorney as a job interview to make sure you are choosing the right attorney to meet your needs and expectations. For example, with the increase in wind energy development in the state, many of our members are in need of an attorney to help them review and negotiate a wind lease or a transmission easement agreement. These agreements are extensive and have the potential for long-term impacts, lasting for decades or into perpetuity. Specialized legal experience is fundamental to providing the best service possible to landowners. As a result, when looking for an attorney to help analyze a lease or easement agreement, one of the first questions to ask of a potential attorney is whether they have experience reviewing and negotiating these types of agreements. Demand specific details about their experience. If they have experience in real estate or oil and gas leases, but not with wind leases or transmission line easements, then you will need to make a determination of whether you trust that they have an appreciation for the differences in these types of agreements and are willing to do what it takes to learn the issues, or whether you should engage another attorney with more applicable

experience. You should also ask questions about a potential attorney’s capacity for work, and discuss timeframes to help set reasonable expectations. These basic principles can be used when engaging an attorney on any matter.

Once you have found one or more attorneys, you can do more research before engaging them to represent you. You can ask attorney candidates for a list of professional or client references that you could call to learn more about that particular attorney’s experience. You can also check the Attorney Registration website from the Kansas Appellate Court Clerk to make sure the attorney is licensed and in good standing within the state. While a face-to-face meeting may be beneficial, today’s technology may enable you to broaden your search and find an attorney who has the right skills, even if they are not located nearby.

The next guidance applies specifically to wind energy and transmission agreements. These are complex and important documents, and your attorney will need time to review them to ensure your interests are well-protected. While there could be bonuses for signing these agreements early, there is likely to be more benefit to taking time and getting the right advice. Finally, consider working with a group of landowners and requesting a fee stipend from the wind energy or transmission company. Landowners often find benefit in negotiating these types of agreements as a collective group, and are often able to obtain a stipend from the company to help defray the cost of any legal fees landowners may incur.

Conclusion:

Whether you are looking for an attorney to help draft, review, or negotiate a contract, or to represent you in potential litigation, there are many things you can do to help choose the right attorney, and set reasonable expectations on all sides. If you are unsure about potential attorneys to represent you, the KFB Legal Foundation may be able to help provide a list of attorneys to consider.