



The Sky is the Limit: Legal Considerations for Drone Technology in Appraisals

Abigail Roberts May 21, 2018

Without a doubt, the integration of drone technology in the appraisal industry is a game changer. Those on the leading edge of the industry have been quick to implement drone programs, amazed at the technological advantages of having their own eye-in-the-sky. In fact, the Federal Aviation Administration's 2018-2038 Aerospace Forecast noted that real estate aerial photography is the largest use of drone technology in the United States at 48 percent of all commercial drone operations.

Legal and Regulatory Considerations:

These early adopters – and those that are just now starting their drone programs – must be aware of the legal and regulatory requirements that apply to drone operations in the national airspace. The federal regulations are contained in 14 CFR Part 107 (Part 107), which went into effect in August 2016. These regulations apply to all commercial drone operations in the United States – i.e. anything that is not a hobby activity.

There are a number of operational and airspace restrictions that drone operators must be mindful of to avoid violating the Federal Aviation Regulations. For example, every drone pilot must have a license called a Remote Pilot Certification from the FAA before they fly.

Under Part 107, drone flights cannot take place over people who are not in a covered structure or directly participating in the operation and flights must occur within the visual line of sight of the operator. Additionally, operations can only take place in the daytime, below 400 feet above ground level (or 400 feet above the top of a structure). However, many of these regulations can be waived by the FAA by submitting an application well in advance of the proposed flight.

The operational requirements, Part 107 also prohibits drone flights in controlled airspace, the airspace surrounding airports. While operators who live in major metropolitan areas with large airports often are aware of controlled airspace and will need a waiver or authorization from the FAA before flying, appraisers who live in areas near smaller regional airports are often surprised to find that they might need to be mindful of controlled airspace that requires applying to the FAA for a waiver before flight.

In addition to national laws, appraisers who want to utilize drone technology also need to be mindful of state and local regulations in their area. States and municipalities throughout the United States have enacted local laws, many falling under their criminal statutes, that also need to be considered prior to flight.

For example, many state laws now include Unmanned Aircraft Systems within their voyeurism statutes. These laws essentially prohibit the use of drone technology in a manner that violates a person's reasonable expectation of privacy. Similarly, many municipalities have enacted local ordinances that prohibit flights within a certain distance of stadiums or other gathering places.

Prior to conducting any drone flight, appraisers must be aware of the various federal, state and local regulations that may apply to their operation. Careful consideration of these issues and compliance with the applicable laws and ordinances is crucial to avoiding liability and minimizing the risk of the operation.

Insurance Considerations:

The purchase of a drone can be a sizable investment for an appraisal company. Depending on the type of drone purchased, the cost can range anywhere from a couple hundred dollars to tens of thousands of dollars. Protecting your investment and shielding your company from potential liability in the event of an accident is an important consideration when starting your drone program.

Some commercial umbrella insurance policies will cover drone operations. Alternatively, there are insurance companies that allow for the purchase of drone insurance on a per-flight basis for a nominal cost through applications on your phone, such as Verifly. Careful thought should be paid to choosing the right insurance policy for your drone program to avoid headaches down the road.

The Sky is The Limit

Drones can take your appraisal business to new heights. Thoughtfulness and attention to the legal requirements of drone operations at the inception of your drone program can set you up for a competitive advantage in your industry.

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About Abigail Roberts



Abigail Roberts is an attorney with Rumberger, Kirk & Caldwell (Miami) who practices in the areas of aviation and drone law. She counsels commercial airlines in litigation nationally and has handled numerous aviation appellate matters. More recently, her commercial aviation clients rely on her for assistance in dealing with the intricacies of drone law and litigation. She serves individual, corporate and government clients in all aspects of drone law and litigation including assistance with obtaining airspace and operational waivers under Part 107, obtaining Public Certificates of Authorization or Waiver (Public COAs), policies and procedures for drone programs and regulatory compliance. She may be reached at aroberts@rumberger.com.