

FAA says drones for commercial usage illegal

Alan McNeil flies drones over low a farmland for The Peoples Company, a land brokerage firm. Chris Gannon/The Register



Joel Aschbrenner, jaschbrenn@dmreg.com 9:07 a.m. CDT July 7, 2014



(Photo: Christopher Gannon/The Register)

Real estate agents are increasingly taking their work to the skies, using remote-controlled aircraft to film bird's-eye-view video tours of homes, land and commercial properties.

It's a great way to interest potential buyers, agents say.

The only problem: They're flying in the face of federal regulators, who say drones are illegal for commercial purposes.

Real estate joins agriculture, filmmaking and journalism as one of the industries finding new ways to use the small unmanned aircraft and pushing the legal limits of their use.

Realtors have always looked for new tools to advertise properties. Online listings have included photo galleries, then satellite images and eventually Google Street View. Drone photography is the logical next step, real estate agents say.

"There's a cool factor," said Bill Knapp III, co-owner of Ironwood Homes Inc., who recently began using a quadcopter (that's drone speak for a four-propeller helicopter) to film the luxury homes that his Des Moines-area company builds and sells. "There is something about being able to see things from the sky that people are really enamored with. This allows us to do that with HD-quality video."

But flying drones to market homes and properties comes with a risk.

The Federal Aviation Administration considers it illegal to fly drones for commercial purposes, including real estate photography. A judge earlier this year struck down the FAA's ban on commercial drone flights. However, real estate agents could still face a \$10,000 fine from the FAA, which appealed the ruling.

IN DEPTH: [How real estate companies use drones \(/story/news/2014/07/06/drones-real-estate-agents-commercial-residential-land-agriculture/12262563/\)](#)

Not waiting for blessing

The FAA is working on rules to govern the use of small drones, defined as weighing less than 55 pounds and staying within 400 feet of the ground. But those rules have been delayed, and some real estate companies aren't waiting any longer for the green light.

"We see other people in the real estate industry using them, and my feeling is it just seems like too good of a tool not to use," said Steve Bruere, president of Peoples Co., a central Iowa land brokerage firm that began using a drone in the spring to appraise and advertise farms and development land. "We just figure we'll ask for forgiveness later."

Real estate agents and developers are finding varied uses for footage shot from the sky. Some are showing potential homebuyers the neighborhood and flying the route their kids would take to school or a nearby park. Others are hovering over large new commercial developments, giving potential tenants and taxpayers a visual update on the construction progress.

Paul McLaughlin, attorney for the Iowa Association of Realtors, said that at the beginning of 2014 he knew one real estate agent in the state who owned a drone — and it was still in the box. Now, Realtors are walking out of hobby stores with their own remote-controlled helicopters and camera attachments.

"In the past four months or so, there has really been a mini explosion," he said.

What changed? No doubt it helps that drones are becoming more widely available and cheaper. Knapp said he spent about \$1,700 on his drone and camera equipment. Bruere spent less than \$2,000.

PREVIOUSLY: [Rockwell Collins, NASA team up on drone project \(/story/money/business/2014/06/26/rockwell-collins-nasa-team-drone-project/11391793/\)](#) | [Iowa Poll: 76% favor warrant for drone surveillance \(/story/news/politics/2014/03/11/iowa-poll-76-favor-requiring-warrants-for-drone-surveillance/6311137/\)](#) | [2/3 frown on personal, commercial drone use \(/story/tech/2014/04/20/twothirds-reject-personal-commercial-drones/7901943/\)](#)

Ruling prompts more use

The ruling against the FAA also emboldened some real estate professionals to take to the skies. In March, an administrative law judge for the National Traffic Safety Bureau ruled that the Federal Aviation Administration's ban on commercial drone flights was not legally enforceable.

The case involved Raphael Pirker, who was fined \$10,000 by the FAA for flying a drone over the University of Virginia to obtain promotional footage.

Since the ruling, it appears the FAA isn't cracking down on real estate agents using drones, McLaughlin said.

"The only risk right now is a cease and desist from the FAA, and I would think those would be few and far between" if agents are doing no harm and using them only around properties they are listing, he said.

Still, the National Association of Realtors advises agents not to use drones until the FAA clarifies its regulations.

Brendan Schulman, the attorney for Pirker, said he is representing companies that have been served with subpoenas by the FAA related to drone use.

Real estate agents and drone advocates said they welcome FAA regulations to address safety and privacy concerns. Many questions have to be answered: Do drone operators have to be trained or licensed? Can drones be flown over streets or near crowds? What stops people from using drones to film into someone's backyard or window?

"Sometimes we call it the wild, wild West," said Gretchen West, executive vice president of the Association of Unmanned Vehicle Systems International, a trade group that represents military and civil drone manufacturers and operators. West said the group wants the FAA to produce rules to legalize and regulate commercial drone flights.

The FAA has predicted 10,000 commercial drones will be licensed by 2018.

"More and more people are flying every single day," she said. "We're frustrated because we would like to see the FAA move a little faster so we know how we can fly."



Take flight in this video from the developers behind the Kettlestone project. Courtesy of NAI Optimum

Other nations go ahead

While the FAA debates it, the U.S. is falling behind other countries that are moving ahead with the commercial use of drones, said Schulman, who leads the Unmanned Aircraft Systems practice at the New York law firm of Kramer Levin Naftalis & Frankel.

"Without a clear path forward from the regulators, the government is holding a lot of progress and innovation back," Schulman said.

Nations that provide commercial permits for drone use include Canada, Australia, Japan and the United Kingdom, he said.

Kurt Mumm, president of NAI Optimum, a West Des Moines commercial brokerage, said his company is cautious about how it flies its drone. The company has used the aircraft to film commercial properties and large developments like Kettlestone, Waukee's proposed 1,500-acre mixed-use development.

Mumm said the company always asks the property owner for permission before flying, stays below 400 feet and is careful about privacy concerns.

"A decent dose of common sense goes a long way," he said, adding that he expects federal officials will add more guidelines, restrictions and rules around drone use.

Register staff writer Donnelle Eller contributed to this story.

Drone shopping? Here are some options

Iowans can find a drone in just about any price range — or level of sophistication they're interested in. One thing users forget while the drone is flying high, Varner says, is whether it can be repaired after it has crashed.

Find a link to a video to see a Blade quadcopter in action, with this story at DesMoinesRegister.com.

Ryan Varner of Hobby Haven in Urbandale gave this run-down of some options:

- DJI Innovations' "quadcopters" range in price from \$500 to \$20,000. Comes with high-quality video that can be livestreamed to a smartphone, or pictures that can be shared with the world while the copter is in the air.
- E-Flite's Blade series can run from less than \$100 to \$1,000.
- The Parrot AR Drone is available at stores like Brookstone for about \$300, and can be controlled with an iPad or smartphone.

What are the rules?

The FAA issued a statement June 18 that drones used for commercial purposes do not qualify as model aircraft and are therefore subject to FAA regulations.

Hobbyists are allowed to fly drones, provided they stay within 400 feet of the ground and away from airports.

According to the statement, banned commercial drone uses include:

- Realtors taking photos of a property they are listing.
- Farmers monitoring crops and spraying fields.
- Delivery of packages.
- Taking photos from a drone and selling them.

The FAA faces a September 2015 deadline to bring regulations on unmanned aerial vehicles to Congress, but it looks unlikely the agency will meet that deadline, according to a federal report released in late June. The report states the FAA faces significant regulatory and technical obstacles to meet the deadline.

Among the obstacles: the FAA has yet to meet safety concerns about integrating drones into national airspace.

Brendan Schulman, a New York attorney and legal expert on drones, said a main safety concern he's heard is the potential risk they would pose to manned aircraft. Schulman represented Raphael Pirker, something of a hero among drone enthusiasts due to his case that led a judge to rule against the FAA's ban on commercial drone flights.

Another safety concern, he said, is the potential harm that drones, especially lower-flying machines, could pose to people on the ground.

— Matthew Patane

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