



**Lisa Ellman**

Hogan Lovells unmanned aircraft systems group, Washington

**A:** Once considered toys, drones are quickly becoming powerful commercial tools that provide enormous safety and efficiency benefits to industry.

Today, these unmanned aircraft systems are used to do everything from search and rescue missions and inspecting power lines or pipelines, to gathering news and delivering medicine to rural locations.

One of the earliest industries to capitalize on "drone fever" has been the real estate sector.

Drone technology allows brokers, agents and developers to take aerial photographs and videos of properties and sites as well as nearby amenities, offering valuable information to buyers.

Drones can be used in areas that would simply be inaccessible to traditional manned aircraft and for a fraction of the cost.

In the United States, the Federal Aviation Administration predicts that real estate and aerial photography will be

one of the largest industries to capitalise on drone technology, accounting for 22% of total commercial drone use by 2020.

While the benefits of drones to the real estate industry are clear, the individuals and companies flying them must understand the regulatory environment in which they are operating.

Most civil aviation authorities around the world today regulate the operation of drones to some degree.

In the US, which often serves as a model for other country's civil aviation authorities, the FAA considers drones to be "aircraft"

## Q: What are the regulatory challenges around the use of drones in real estate?

and their operation is regulated under the Federal Aviation Regulations.

Here is a look at the top four regulatory challenges to commercial drone use in the real estate industry.

### 1 Pilot certification

The FAA requires drone pilots to obtain a Remote Pilot Certificate. Pilots must pass an aeronautical knowledge exam that covers applicable federal regulations and topic areas such as airspace classification, emergency procedures and more.

### 2 Airspace restrictions

Under the Federal Aviation Regulations, drones cannot be flown in restricted airspace unless approval is received from air traffic control (ATC).

Unfortunately, ATC approval can sometimes take weeks or months to receive.

The FAA is currently in the process of rolling out its new Low Altitude Authorization and Notification Capability (LAANC) system, which will help automate and significantly speed up the process for obtaining approval to operate in controlled airspace near airports.

Realtors must also be mindful of temporary flight restrictions (TFRs) published by the FAA, as well as restrictions on flying near certain sensitive sites.

### 3 Restrictions on flights over people and vehicle traffic

The FAA generally prohibits drones from flying over unsheltered non-participants, as well as over moving vehicles.

While this may not be an impediment to flights in rural and suburban areas, this restriction can make it difficult or impossible to fly in more densely populated urban environments where the flow of people and vehicles on the ground cannot be controlled by the operator.

The FAA has a waiver process to allow operations over people if an operator can show that they can do so safely.

### 4 Property rights and privacy issues

The FAA does not require a drone operator to get permission from a property owner before flying over someone else's property but, depending on where the flight occurs, there may be laws relating to nuisance or privacy issues that could impact a drone operator's ability to fly over private property without permission.

Additionally, a person who launches or lands (or crashes) a drone on someone else's private property without their permission could be sued for trespass in some jurisdictions.

For this reason, it is always a good idea to obtain permission from neighbouring property owners before flying a drone over their property.

“

*A person that launches or lands a drone on someone else's private property without their permission could be sued for trespass*

*This answer was co-written by Matt Clark*