

p8

What is your body language saying to potential applicants?

p20

Learn how to access and understand the culture and mindset of investors you are trying to reach.

p28

Take a prophylactic stance and avoid the cost of restoring what was originally a clean property.

RESIDENTIALResource



THE OFFICIAL MONTHLY NEWS MAGAZINE OF THE NATIONAL ASSOCIATION OF RESIDENTIAL PROPERTY MANAGERS

Will You Be Able to Add **DRONES** to Your Tool Kit?

The FAA has given signals that it will be softening rules and requirements in the next few months for what it considers to be 'small' commercial use UAS (unmanned aircraft systems or drones). Privacy has traditionally been within the jurisdiction of State law, and this issue more than any other may present challenges for business owners using drones. Operators will need to understand both Federal and local rules and regulations. Like any investment, the potential should be measured against the cost; but with so many clear benefits to those involved in the real estate industry, the time for doing homework seems like right now. **SEE PAGE 6.**





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... 22% of all drones flying in the United States will be used for real estate aerial photography and another 42% will be used to provide aerial inspection services.

Commencing Countdown in 2016 Drones

As of the time of writing this article (April of 2016), the National Association of REALTORS® (NAR) has recommended that its members not use drone technology, so why dedicate space to discussing this new technology? The reason is simple. Drones, and drone technology will be freed up for the average commercial user, and that change could happen within the next few months. In its official forecast, entitled 'FAA Aerospace Forecast' (Fiscal Years 2016-2036), the Federal Aviation Administration (FAA) estimates that, by 2017, there will be over two million commercial drones in operation. According to that same report, 22% of all drones flying in the United States will be used for real estate aerial photography and another 42% will be used to provide aerial inspection services. Interested readers may find the FAA Aerospace Forecast at: http://www.faa.gov/data_research/aviation/aerospace_forecasts/media/FY2016-36_FAA_Aerospace_Forecast.pdf.

Whether you serve the interests of the residential or commercial property real estate market, sales or property management and maintenance, the potential represented by drone technology is undeniable. What is more compelling than a 'movie' starring the property for sale and its surrounding neighborhood? With minimal expense, drone technology can provide a potential customer with close-ups of features and areas of concern, such as roofs and windows. For inspectors and maintenance crews, drones eliminate the need for scheduling pre-repair visits. Instead of setting up ladders or scaffolding, exposing employees and others to the real risk of injury, a drone operator can perform the same function with the touch of a joystick. Now, crews can be dispatched with an informed punch list of repairs and the tools and supplies needed, already on the truck.

Only a few years ago, this kind of technology was unavailable. In 2016, anyone can purchase a drone equipped with a high-resolution video camera, Wi-Fi capability, and hours of flight time for an average investment of between \$500 and \$1,500 a unit.

A BRIEF HISTORY

Defined as 'unmanned aircraft systems' (UAS) and 'unmanned aerial vehicle' (UAV) in official govern-

ment documents, drones are poised to slip from their military corral into mainstream operations for both businesses and private citizens. What enabled this change was a mandate issued by Congress in 2012. Prior to this time, commercial use of drones was specifically prohibited, reserving that right to the Federal government.

The directive by Congress to the FAA requiring that civilian use of drones be integrated into the National Airspace System (NAS) reflects a recognition of the potential benefits that this technology represents to domestic business. The deadline given to the FAA to enact this change was September 30, 2015. As the deadline approached, the march toward general availability devolved into a largely uneven race between consumers, who were anxious to take advantage of this step into the age of Star Wars, and the FAA's regulatory concerns. The result was a proliferation of retailers offering units for sale. It is estimated that over one million drones were sold in the United States alone during the 2015 Christmas season.

So, what steps has the FAA taken? Since 2012, there has been a way for a business to be granted the right to fly drones. Known as the Section 333 Exemption, this process requires a business to file a formal request, along with certificates of airworthiness for each of its 'unmanned aircraft' and register the flying credentials for each of its unmanned aircraft operators. While not requiring an attorney, the process is still time consuming, and, once filed, each petition must be individually reviewed. As of March of 2016, close to 4,000 exemptions have been granted; but the backlog of those businesses waiting is impressive. While the FAA has brought the process into the electronic age, the manual review continues.

The first major change reflecting a real softening in oversight was the launch of the Unmanned Aircraft Systems (UAS) Registry on December 25, 2015. This on-line site serves hobbyists and others who use drones for recreational purposes. The FAA is requiring that all non-commercial drones weighing over half a pound, but less than 55 pounds, be registered through this website. There is a minimal cost and users are alerted that the registration will need

to be renewed every two years. There are still forms to be completed, but Certificate of Airworthiness and Training Certificates for operators no longer apply. An operator may register multiple drones and the same registration number will be applied to all devices owned by that person or entity. It is also clear from the information on the Registry website that there is an expectation that owners will log in and register when drones are sold or otherwise put out of operation.

So, if the FAA says these rules don't apply to commercial users, why present this information? The FAA has given signals that it will be softening rules and requirements in the next few months for what it considers to be 'small' commercial use UAS (drones). Most of the information coming out of these meetings mimics the rules for recreational users. While not final, these draft rules give insight if you are considering adding drones to your tool kit.

FAA OVERVIEW – PROPOSED RULEMAKING

Knowing that nothing in Washington is ever over until the ink is dry, review the following rule set for what it is – a 'most likely' scenario for small businesses who wish to use this technology.

- **Weight:** This is the primary qualifier. Most drones carrying camera equipment weigh between twenty-five and forty pounds. There is some debate as to whether the weight of the 'payload' (what the drone may be carrying) should be included in the eligibility weight.
- **Operating within line-of-sight and during day-time hours:** This is causing some debate. The FAA feels that an operator should maintain their drone in their physical line-of-sight at all times. 'Seeing' through a camera doesn't count. This is problematic if the purpose is to fly over the roof of a building to inspect damage. Look for concessions demanded by businesses on these two points.
- **Maximum height and air speed:** Most businesses that went through the Section 333 Exemption process were given a maximum height restriction of 200 feet. Many are being notified that their height restriction has been doubled, and proposed general rules are suggesting 500 feet (50 stories) as being standard. Air speed is also being reviewed. A maximum air speed of 100 miles per hour is likely.
- **Understanding and respecting restricted air-space:** There will be restrictions in place for operating too close to airports, government buildings, prisons, schools, and other designated property or business types.
- **Operator training:** While recreational users are not being asked to complete formal training, the FAA will push to have commercial operators complete an initial aeronautical knowledge test at an accredited FAA testing center. While there has been some pushback on this, the FAA feels strongly that standards in safety inspection, basic knowledge, and accident prevention, as well as reporting, is critical to public safety. They will want to hold firm.

Continued on page 26 "Drones"

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Continued from page 7 "Drones"

- **Aircraft Markings:** While airworthiness certificates will become a thing of the past, a label that links the drone to a specific operator will be required. It is the FAA's way of tracking who has responsibility for drones in the public airspace.

THE CONCERNS

By its own admission, the FAA is behind schedule, but the issues it faces are complex. Since 2014, there have been regular complaints of drones interfering with commercial aircraft. There have been disputes as to the FAA's role and authority in assessing and enforcing fines for those operating drones outside of the rules. It is likely the FAA will have jurisdiction and the ability to assess and enforce penalties. What is not clear is whether they will pre-empt or share this ability with States that already have laws on their books pertaining to drones.

As of early 2016, twenty-six States have legislation regulating some aspect of drone operation. Most State laws prohibit the use of drones by law enforcement agencies without first obtaining a properly executed search warrant. Since most drones are capable of both audio and visual recording, the laws are specific as to the need for both. California became the first State, now followed by others, to prohibit the use of drones for filming persons engaged in private or family activities. Privacy has traditionally been within the jurisdiction of State law; and this issue, more than any other, may present challenges for business owners using drones. Operators will need to understand Federal, State and local rules and regulations before getting their drones into the air.

PRIMARY CONCERNS FOR BUSINESS OWNERS

Aside from the challenges of overlapping Federal, State and possibly local laws, what other concerns should any drone operator consider?

- **Operator Disinhibition** – This phenomenon is being noticed with the Internet. People who normally behave in a responsible manner, will behave in an aggressive or otherwise antisocial way because they have the shield of anonymity. This same phenomenon is considered to be a potential concern for drone operators, who may feel disassociated from the vehicle, thereby encouraging them to behave in a risky or reckless manner.
- **Privacy Concerns** – This is the primary concern of both law enforcement and the insurance industry. It seems inevitable that using drones to take photographs of buildings and other structures in the public space will spark discussion. It is likely that tools and guidelines will be developed that establish standards for reasonable and acceptable operations.
- **Insuring your Investment** – Insurance forms have only recently started showing up on the market to insure both the drones themselves and the exposure to lawsuits they represent. Forms which traditionally exclude exposures associated with 'aircraft' are being retooled to differentiate unmanned from manned aircraft. Look for standard exclusions to continue for manned aircraft, but coverage extensions to be offered for unmanned aircraft (drones). From a property perspective, most insurers are developing separate policies that include both coverage for the drone and any attached equipment (like cameras, recording equipment, and software) and for the cargo the drone may carry on a temporary basis. Pricing varies, but coverage should not be difficult to obtain.

SO, IS IT TIME TO BUY?

Like any investment, the potential risks and benefits should be measured against the cost; but with so many clear benefits to those involved in the real estate industry, the time for doing homework seems like right now. 

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The 7,078-yard Wailea Gold is a masterfully designed layout. Its strategic and rugged design takes advantage of the terrain's natural undulations and phenomenal ocean vistas. Four to six tee boxes built into every hole makes it a suitable track for virtually every player.

The Gold Course has collectively been honored dozens of times by *Golf Magazine*, *Golf Digest*, *Golfweek*, *Gayot.com*, and *Zagat.com*. Local readers of *The Maui News* voted it one of their top choices in the "Best Golf Course" category.

The Wailea Gold was created by architect Robert Trent Jones II, and has been called a "thinking player's course," offering a true test of one's golf skills. Strategy and finesse are important to playing the Gold well, and the course's intriguing risk-reward choices makes it possible to use every club in your bag.

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(Information taken from: <http://www.waileagolf.com/wailea-gold-maui-golf-course/>)

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