

# The **DRONE** DEBATE



The next frontier of aviation or a threat to our privacy?

BY ETHEL NAVALES

In our May/June 2016 cover story, we discussed the challenges facing landowners and the drone industry in regards to airspace and airspace property law. Of course, this debate is far from over. The Federal Aviation Administration (FAA) expects drone sales to jump from two million to seven million by 2020, especially with increasing interest in drones for commercial purposes. But with this increase of drone use comes a number of privacy and legal concerns. And it seems that without current regulations in place, many landowners are taking matters into their own hands. In 2015 for instance, a Kentucky resident shot down a drone that was flying above his yard. This raises the question of

whether or not landowners should be allowed to prevent drones from flying over their property.

The Wall Street Journal recently took part in the conversation by asking that very question. They invited advocates from each side to put forth their best case, ultimately asking whether drones are the future of aviation or simply a threat to our security.

## Should landowners be allowed to prevent drones from flying over their property?

**YES** Michael Fromkin, a distinguished professor of law at the University of Miami School of Law, argued that drones pose far too great a risk on our safety and should not be given the legal right to fly over private property if that is not the wish of the landowner. He regarded this as a matter of trespassing, especially when it comes to drones that can film, record sounds, listen in on Wi-Fi signals and worst of all, drones that may be armed.

"Limitless low-level overflights mean you could be spied on by anyone with a few hundred dollars and a voyeuristic streak," Fromkin pointed out.

Of course, he acknowledged that some Americans are in favor of drone home deliveries, and while these people may give their consent, this does not mean drones should disregard the wishes of the surrounding residents. Instead, Fromkin suggested that GPS-enabled drones should fly above public roads in regulated traffic layers and not above private property. He concluded that like airplanes, drones should be limited to flying above 500 feet of private property where navigable airspace managed by the FAA begins.

**NO** Ryan Calo, an assistant professor of law at the University of Washington, made the case that drones represent the next frontier in aviation and commercial air travel. In fact, he pointed out that we have barely broken the surface when it comes to all the uses that drones provide. Companies want to use them for delivery, while journalists want to use drones for breaking news. Even police want to utilize drones to locate missing children.

As such, Calo argued that decisions concerning drones should be made collectively through thoughtful limits. He agreed that more privacy laws need to be created to keep up with emerging technology, but ultimately these laws must be sensible and should recognize all the potential that comes with unmanned aerial vehicles.

"To leave the future of drones to individual homeowners is inefficient and unwise," Calo argued. "'Keep off my lawn' is no way to manage what we may soon come to see as an integral component of our delivery infrastructure."

Calo concluded that the answer to this debate lies in the regulations, not the shotgun.