

GRAZING ASSOCIATIONS

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Frequently Asked Questions:

1. What is a Grazing Association?

A grazing association is a property owner's association that ensures that owners of lots in a planned grazing community maintain agriculture as the principal use of each lot and maintain agricultural use as the principal use of the entire property.

2. Is the grazing association the basis for the agricultural valuation?

The structure of the grazing association is not the basis for a tax valuation, but rather a mechanism for ensuring that neighbors in the specific rural subdivision adhere to the requirements necessary to maintain agriculture as the principal use of the property. Maintaining agriculture as the principal use of the property is necessary in order to maintain an agricultural valuation. Unlike wildlife associations, the tax code does not have a specific provision describing the requirements for a grazing association. The grazing association, along with appropriate CCRs, is a mechanism for property owners to ensure a large parcel of land can be used for grazing and that their neighbors in the grazing association don't change the principal use of their own lots or take action that would impede the movement of the herd. The restrictions in the CCRs ensure that the requirements of the grazing association are enforceable by the association and among neighbors in the association.

3. Does a landowner in a grazing association need to let cattle graze on their land?

Yes. The purpose of the grazing association is to keep agricultural use (in the case of a grazing association, the agricultural use is grazing cattle) as the principal use of the entire property and of each lot. Any residential use must be secondary to the agricultural use.

4. Can a landowner fence his or her lot?

A landowner in a grazing association typically may fence around the one-acre parcel that contains their home as long as that fence does not impede the ingress or egress of the grazing cattle from the rest of their lot or the rest of the property. The grazing association may prohibit such a fence where it might have

any effect on the determination that agriculture is the principal use of the property. A landowner generally may not fence the perimeter of his or her lot.

5. Is it possible for a landowner to get an agricultural valuation on his or her one-acre homesite (the “carve-out”)?

Landowners in a grazing association should expect that their one acre homesite will be taxed at market value. Landowners should carefully review their CCRs before making any alterations to their property. We work with property tax Professionals and appraisal districts when we draft CCRs for grazing associations to be sure the restrictions are compatible with local guidelines.

6. How much acreage must each lot contain?

This depends on the guidelines of the particular appraisal district, the type of livestock, and the size of the entire property (subdivision). We don't set up grazing associations with acreage less than 5 acres; however, there is no guarantee five acres will work in any particular subdivision. Prior to subdivision, developers should verify with the Chief Appraiser of the relevant county or counties.

7. How many cows must be on the property?

The law does not state what degree of intensity qualifies a particular type of land. The Chief Appraiser of an area sets the standards based on the Comptroller's guidelines and the agricultural practices in the area. Many times appraisal districts will publish degree of intensity requirements and make those available online.

8. Are grazing associations common?

Sharing grazing leases or grazing land is common in Texas. The structure of a grazing association is essentially an agreement between landowners and restrictions on the entire subdivision to ensure that neighbors in the subdivision are bound to comply with the requirements of the tax code, the comptroller guidelines and local guidelines regarding agricultural use of the land and grazing. The grazing association provides a framework for adjacent property owners to comply with the requirements. This ensures that a landowner can purchase a smaller parcel, use his parcel for agricultural as part of a larger grazing operation, and know that his or her neighbors are bound to also use their land for grazing and be part of that grazing operation as well.

9. Is a grazing association similar to a grazing a cooperative?

Yes. A grazing association operates similar to a cooperative in that the association manages the grazing leases or the herd or herds that graze on the

lots and over the property. Each members' dues contribute to the expenses of operating the grazing enterprise and managing the land.

10. Why allow grazing on small parcels?

As the population of Texas continues to grow and our rural communities see an influx of people leaving the cities, grazing associations keep subdivided land essentially rural. Grazing associations help ensure minimum lot sizes and encourage landowners to keep property in a more natural state, preserving the natural character of the land and the rural nature of the community.

11. What are the benefits to the community of having a grazing association as opposed to a regular property owner's association or a traditional subdivision?

When a grazing association works properly, the owners of lots as small as five acres (if approved by the appraisal district) are able to receive an agricultural valuation on their property. This makes larger parcels more affordable to middle class families and buyers and provides an alternative to the "postage-stamp" sized lots that turn up in rural communities as populations increase. Larger lots result in less traffic than small suburban type lots and require less infrastructure.

12. Are the restrictions imposed by a grazing association through CCRs permanent?

Deed restrictions for our grazing associations are recorded in the real property records of the county. They are permanent and apply to each buyer of a lot and each subsequent buyer. Under the property code, landowners do have an option to change or terminate deed restrictions with a vote of at least 67% of the landowners in the subdivision. However, buyers of lots subject to a grazing association are buying into a rural subdivision with the understanding that agricultural must be the principal use of the land. In the event 67% of the landowners in the grazing association wished to change the principal use or cancel the deed restrictions in the future, landowners would likely be subject to roll back taxes and properties that no longer have agriculture as their principal use would be subject to tax on the market value of their lots.

13. How does the structure of a grazing association assist the appraisal district?

A grazing association can provide the central appraisal district with one lease, one grazing plan, or proof of agricultural use encompassing all the land included in the grazing association. Each landowner can then simply provide proof that the landowner is a part of the particular association with their application for an agricultural valuation. Because the members of the association have a vested interest in the compliance of their neighbors with the requirements of the grazing association, there is additional oversight to ensure that agriculture

remains the principal use of each lot and that no owner inside the lot is taking action that might jeopardize such a determination.

14. Do people buy into grazing associations simply for the tax benefits?

The tax benefits of an agricultural valuation on a portion of each lot (remember the carve-out will be taxed at market value) do make the lots in a grazing association attractive to buyers. However, purchasing land in a grazing association is a commitment to using the land for the principal purpose of agriculture. A landowner's use of the property must not interfere with the principal purpose of grazing and so the use of the remainder of the property (outside the carve-out) is strictly limited; no use, inside or outside the carve-out may impede the principal use of grazing. Landowners cannot construct buildings, pools, barns, or any other structure outside the one acre carve-out. Horses are generally disallowed unless kept within the 1 acre carve-out. Property owners may not construct arenas or commercial facilities on their agricultural land. They may not fence the perimeter of their property or manicure their property in a way that interferes with the grazing herd. Landowners must let the association or its agents enter their land and place feeders or water troughs on their land if necessary to care for the herd. Landowners must allow cows and cattle to roam freely on their property and graze. A purchase of a property in a grazing association is a commitment to use the property for agricultural use and to make the owner's use of the property for residential purposes secondary to the principal use of agriculture, specifically grazing.