

Farming Lawsuits Exempt In California

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Farming activities throughout the State of California are exempt from nuisance lawsuits.

In *Rancho Viejo, L.L.C. v. Tres Amigos Viejos, L.L.C.*, the California Court of Appeals has upheld a trial court's decision and application of California Civil Code Section 3482.5 et seq. (also known as Right to Farm law), statutes that exempt farming activities from nuisance lawsuits.

The Right to Farm law was added to the Civil Code in 1981 by the enactment of Assembly Bill 585. The statutes provide that farming activities in California are exempt from "nuisance" lawsuits, however, the statutes are silent with regard to "trespass" lawsuits.

In *Rancho Viejo*, a residential developer sued an avocado farmer for failure to contain irrigation water that damaged the developer's land. The developer alleged that water run-off from the avocado farmer's watering of the avocado trees was "trespassing" on the land to be developed. Although the Right to Farm law bars nuisance lawsuits against farmers in California, the developer focused his argument on the distinction between nuisance and

trespass. The developer argued that *"while section 3482.5 may bar a claim for nuisance against a farmer for the smell of his cows, it will not shield him from liability if a cow escapes and trespasses onto a neighbor's property, thereby destroying or damaging the neighbor's property."*

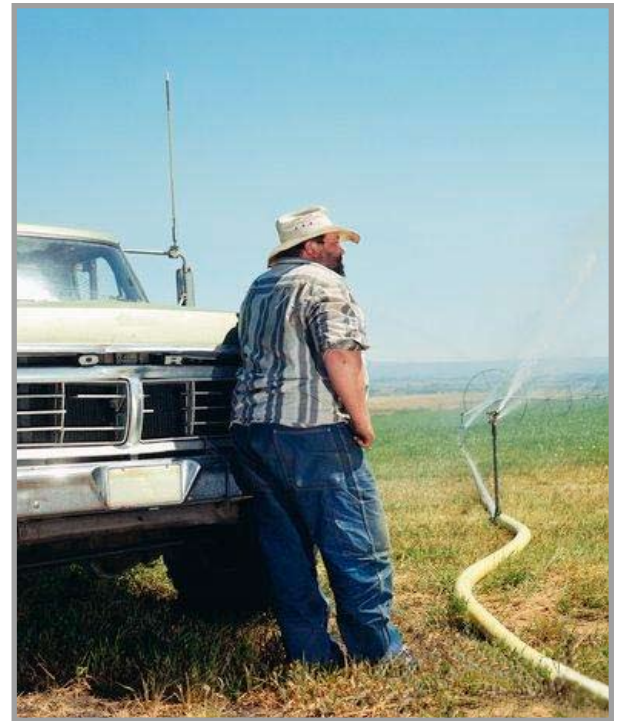
The Court's primary aim in construing any law is to determine the legislative intent behind it, and in *Rancho Viejo*, the Court rejected the developer's suit and argument for trespass claiming that a nuisance is not limited to intangible intrusions upon land. The developer could not avoid the Court's application of the Right to Farm law.

The Right to Farm law significantly decreases lawsuits by individuals who have moved into new housing developments in agricul-

find that the long-established farm activities bordering their back fence are offensive to their senses.

Lawsuits against agricultural operations are becoming more prevalent as urban development moves into agricultural areas.

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