



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
August 31, 2007

TOM CORBETT
ATTORNEY GENERAL

Litigation Section
15th Floor, Strawberry Square
Harrisburg, PA 17120



Board of Commissioners
SALISBURY TOWNSHIP
Salisbury Township Municipal Building
3000 S. Pike Avenue
Allentown, PA 18103

Re: Zoning Ordinance of Salisbury Township

Dear Board of Commissioners:

As you are aware, the Office of Attorney General received an Act 38 request from [REDACTED] to review the Salisbury Township Zoning Ordinance of 1993. [REDACTED] requested that we review the special exception requirement for timber harvesting. It appears from our review that Sections 306 and 516 of the Ordinance unlawfully prohibit or limit a normal agricultural operation in violation of Act 38.

Specifically, Sections 306 and 516 mandate that tree harvesting is permitted as a special exception in the Conservation Residential District (CR). The imposition of a special exception process for tree harvesting conflicts with and is preempted by the Municipalities Planning Code (MPC), which provides that "timber harvesting, shall be a permitted use by right in all zoning districts in every municipality." 53 P.S. §10603(f). The MPC authorizes the imposition of a special exception in a zoning ordinance only in accordance with the provisions of the MPC. 53 P.S. §10603(c)(1).

It is my understanding that Michael Killion, a former Deputy Attorney General of this office, has already discussed this legal problem with a zoning official from your Township. Mr. Killion was told that the ordinance would be amended to correct the problem. I am now handling the review of this ordinance and, to date, our office has not received any communication from the Township to confirm the amendment of the Ordinance.

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We are prepared to bring legal action against the Township pursuant to Section 315 of Act 38 to invalidate or enjoin enforcement of the preempted provisions. Before doing so, however, we offer the Township an opportunity to provide relevant information or materials and to meet with us to discuss the matter. We would appreciate receiving the Township's response on or before September 17, 2007.

Sincerely,



Susan L. Bucknum
Senior Deputy Attorney General

SLB/
cc: 