



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ATTORNEY GENERAL  
January 28, 2010

TOM CORBETT  
ATTORNEY GENERAL

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Charles A. Rausch, Esquire  
BLAKEY, YOST, BUPP & RAUSCH, LLP  
17 East Market Street  
York, PA 17401

**RE: Shrewsbury Township Sewage Sludge Ordinance Nos. 2008-05, 2008-08, and 2007 SALDO Amendments**

**Dear Charlie:**

As you recall, we informed Shrewsbury Township on January 15, 2009, that Shrewsbury Township Sewage Sludge Ordinance No. 2008-05 and the Shrewsbury Township Land Application of Sewage Sludge Ordinance No. 2008-08 unlawfully prohibit or limit a normal agricultural operation in violation of Act 38. Subsequently, we were provided with a copy of the Township's 2007 amendments to its Subdivision and Land Development Ordinance (SALDO) imposing restrictions and requirements that also unlawfully prohibit or limit a normal agricultural operation in violation of Act 38. We provide the following discussion and proposal to resolve our ACRE review before we initiate legal action.

The provisions of ordinance number 2008-05 are, on their face and as a matter of law, prohibited and/or preempted by state law. Commonwealth v. East Brunswick Township, 980 A.2d 720, 733 (Pa. Cmwlth. 2009) (East Brunswick II) (explaining that "Liverpool and Synagro teach that a township cannot duplicate the regulatory regime established by the SWMA and cannot impose more stringent requirements than the SWMA.").

Ordinance number 2008-08 is identical to the East Brunswick Township ordinance we challenged, resulting in the Commonwealth Court's decision in East Brunswick II. Following this decision, East Brunswick Township proposed amendments to its ordinance to resolve the legal problems identified in our lawsuit. After negotiations, East Brunswick Township enacted ordinance number 2009-3 and we discontinued our lawsuit. Enclosed is a copy of East Brunswick Township's ordinance number 2009-03.

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Finally, the 2007 SALDO amendments are plainly intended to indirectly prohibit the land application of biosolids. The amendments are preempted by the Solid Waste Management Act. East Brunswick II, 980 A.2d at 730-34; 25 Pa. Code § 271.101, *et seq.*

We plan to file a lawsuit against Shrewsbury Township by March 1, 2010, unless the Township, before then, commits to repeal its ordinance numbers 2008-05, 2008-08, and the SALDO provisions or to amend them as East Brunswick Township amended its ordinance.

Sincerely,



**SUSAN L. BUCKNUM**  
**Senior Deputy Attorney General**

SLB/  
Enclosure  
cc: 