



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

JOSH SHAPIRO
ATTORNEY GENERAL

May 7, 2020

Office of the Attorney General
ATTN: Senior Deputy AG Robert A. Willig
1251 Waterfront Place
Mezzanine Level
Pittsburgh, PA 15222

Hopewell Township Board of Supervisors
415 Three Square Road
Newburg, PA 17240

Re: ACRE Complaint – Hopewell Township, Cumberland County

Dear Board of Supervisors and

Act 38 of 2005, 3 Pa.C.S. § 311, *et seq.*, the Agricultural Communities and Rural Environment (“ACRE”) law, requires that the Office of Attorney General (“OAG”), upon request of a farm owner or operator, review a local government ordinance for compliance with Act 38. We write to inform you that we received an ACRE request from challenging various ordinances. A copy of the ACRE request is attached for your review. The first complain about not being able to run a bicycle sales/repair shop (Paragraph 2) and how a restrictive covenant is “terribly unfortunate (Paragraph 3). ACRE does not cover those two matters. The ACRE issues start in Paragraph 4 of the complaint. For the sake of clarity, the claims can be organized into four (4) broad categories: 1) the definition and use of the term “Intensive Agriculture; 2) minimum acreage requirements; 3) setbacks; and 4) wellhead protection.

The OAG has an ACRE Resource Center on its website (<https://www.attorneygeneral.gov/resources/acre/>) which contains a list of cases the OAG has handled since 2006. Included in that list are links to PDFs of our “Acceptance Letters.” When the OAG receives an ACRE Complaint, we review the case and decide whether we think an ACRE violation has occurred. If the OAG does so conclude, we draft an Acceptance Letter explaining to the Township in detail why its ordinances violate state law and what it must do to avoid litigation. I request that Hopewell Township respond to ACRE complaint within thirty (30) days of receipt of this letter. I respectfully suggest that the Township may want to refer to the OAG ACRE website before drafting its response. The OAG has repeatedly addressed in earlier ACRE cases the four broad issues currently raise. What follows is a list of prior OAG Acceptance Letters where the four issues currently raised have been analyzed:

1. Intensive Agriculture: *Elk Township*, August 2019; *Walker Township*, August 2018; *Maxatawny Township*, May 2017; *Gratz Township*, November 2016; *Montour Township*, April 2015; *Highland Township*, February 2015; *Colerain Township*, April 2010; *Elizabeth Township*, September 2009; and *Lower Towamensing Township*, July 2006. The OAG also successfully litigated the Richmond Township case in Commonwealth Court, challenging, among other issues, how the township defined and implemented the term "intensive agriculture." See *Commonwealth v. Richmond Township*, 2 A.2d 678 (Pa.Cmwth. 2010).

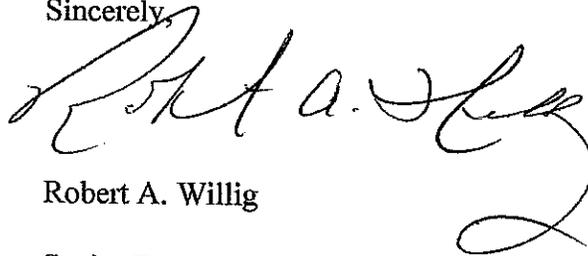
2. Minimum Acreage: *Ferguson Township*, June 2017; *Cumberland Township*, November 2016; *Gratz*; *Salem Township*, July 2016; *Heidelberg Township*, December, 2014; *Locust Township*, February 2011; *Hartley Township*, August 2008; *Lewis Township*, August 2008; and *Montour Township*, June 2008;

3. Setbacks: *Woodward Township*, April 2017; *Cumberland*; *Gratz*; *Salem*; *Montour*; *Heidelberg*; *Locust*; *Colerain*; *Elizabeth*; *Hartley*; *Lewis*; *Montour*; and *Lower Towamensing*.

4. Wellhead Protection: *Longswamp Township*, November 2017.

Once you have reviewed these Acceptance Letters, I would greatly appreciate a response to the ACRE complaint after which time we can begin discussions on how to proceed in this matter. Thank you very much for your assistance and please stay safe during these trying times.

Sincerely,



Robert A. Willig

Senior Deputy Attorney General