



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

[REDACTED]

South Strabane Township Board of Supervisors
550 Washington Road
Washington, PA 15301

[REDACTED]
[REDACTED]
[REDACTED]

Re: ACRE Complaint – South Strabane Township, Washington County – [REDACTED]

Dear Board of Supervisors and [REDACTED]

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 [REDACTED]. A copy of the ACRE request is attached for your review. [REDACTED] raises two issues: 1) setbacks; and 2) fencing.

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 South Strabane Township respond to [REDACTED] 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 setback issue. What follows is a list of prior OAG Acceptance Letters where the setback issue has been thoroughly analyzed: *Woodward Township*, April 2017; *Cumberland Township*, November 2016; *Gratz Township*, November 2016; *Salem Township*, July 2016; *Montour Township*, April 2015; *Heidelberg Township*, December 2014; *Locust Township*, February 2011; *Colerain Township*, April 2010; *Elizabeth Township*, September 2009; *Hartley Township*, August 2008; *Lewis Township*, August 2008; *Montour Township*, June 2008; and *Lower Towamensing Township*, July 2008. I have also attached for your review a Penn State

Extension publication, *Agronomy Facts 40, Nutrient Management Legislation in Pennsylvania: A Summary of the 2006 Regulations*.

██████████ wants to build a horse barn. ██████████ will not be operating a Concentrated Animal Operation ("CAO") nor a Concentrated Animal Feeding Operation ("CAFO"). As one can see on page 1 of the *Agronomy Facts 40* as well as in several of the Acceptance Letters just cited, the setbacks apply only to CAOs and CAFOs. They do not apply to a small horse farm. Moreover, the only time a 300 feet setback applies is when the building is "located on slopes exceeding 8 percent where the slope is toward the property line" or when the building has a "capacity of 1.5 million gallons or greater..." of waste. *Agronomy Facts 40*, p. 5. ██████████ informs me that the proposed barn is not to be built on a slope exceeding 8% running toward ██████████ neighbor's property line and of course the horse barn will not produce 1.5 million gallons or more of waste. On the fencing issue, it is unclear why South Strabane requires a permit for fencing when its own ordinances state that a fencing "[p]ermit shall not be required for farm fences." §245-172.3.b.

Once you have reviewed the Acceptance Letters and *Agronomy Facts 40*, can you please include in your response whether the Township's will permit ██████████ to build her barn. Thank you very much for your assistance and please stay safe during these trying times.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. A. Willig". The signature is written in black ink and is positioned above the typed name.

Robert A. Willig

Senior Deputy Attorney General