



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

JOSH SHAPIRO
ATTORNEY GENERAL

August 13, 2020

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

[REDACTED]

Upper Oxford Township Board of Supervisors
1185 Limestone Road
Oxford, PA 19363

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: ACRE Complaint – Upper Oxford Township, Chester 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] contends that Upper Oxford prohibited her from processing her aloe vera crop into products because it was the Township’s view that she was engaging in “manufacturing” by doing so and “manufacturing” was prohibited in the Agricultural Zoning District. If you could please respond to the ACRE complaint within thirty days of receipt of this letter I would greatly appreciate it.

In considering its response, I respectfully submit that Upper Oxford would be well-served by referring to certain provisions of the Right to Farm Act (“RTFA”), 3 Pa.C.S. § 951, *et seq.* The Act reads in pertinent part that the term “agricultural commodity” includes “horticultural” products “raised or produced on farms...and the processed or manufactured products of such products intended for human consumption.” 3 Pa.C.S. § 952(1) & (6), **Definitions, Agricultural commodity.** Aloe is a horticultural product, grown on the [REDACTED] farm, that is processed/manufactured, into products. Using a reasonable interpretation of the term “human consumption,” that means more than just eating the product. It can be argued that that term includes agricultural products that are intended to be used by people as opposed to just being eaten by people. For example, bee keepers do not just produce honey. They process the beeswax into candles, lip balm, and other items. Hemp farmers, an expanding sector of the agricultural community in Pennsylvania, grow hemp

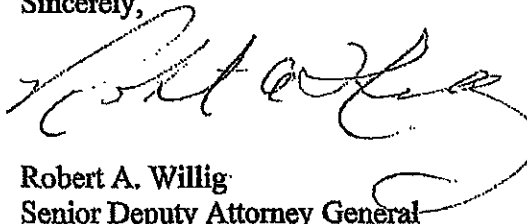
for all sorts of uses none of which are for eating. Nurseries and tree farms, undoubtedly agriculture, grow and sell plants and trees none of which are eaten. Equine activities like stables and riding schools are agriculture. These are but a few examples of agriculture encompassing more than just food.

The RTFA continues that a "normal agricultural operation" ("NAO") is one where "[t]he activities, practices, equipment and procedures that farmers adopt, use or engage...in the production, harvesting and preparation for market or use of...horticultural...crops and commodities..." 3 Pa.C.S. § 952, **Definitions, Normal agricultural operation**. A NAO includes "machinery designed and used for agricultural operations...and related equipment used to...prepare crops for marketing..." *Id.* Every ACRE case is fact specific. [REDACTED]

[REDACTED] The OAG simply offers the above information so that Upper Oxford can make an informed response to the ACRE complaint and so that the Township is aware of some of the arguments farmers and their lawyers have presented to this Office in the past concerning turning plants into products.

Thank you very much for your assistance and please stay safe during these trying times.

Sincerely,



Robert A. Willig
Senior Deputy Attorney General