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PA Office of Attorney General
Attn: ACRE
15th Floor, Strawberry Square
Harrisburg, PA 17120

To Whom it may concern,

I am contacting you on behalf of my client [REDACTED]
[REDACTED] regarding his proposed timber sale. During our efforts to prepare the property for a thinning harvest we have encountered issues with the Upper Makefield Township ordinance. We feel that while overall we were able to comply with their restrictive timber harvesting ordinance (Exhibit A), the restrictions on slopes and requiring a performance bond, the township egregiously oversteps their authority in this matter. We wish to have their ordinance and fee schedule in its entirety reviewed by your office, however, giving immediate priority to these two areas of concern that are inhibiting us from proceeding.

In May of 2021 we completed a forest management plan in compliance with the property's conservation easement held by the [REDACTED] in anticipation of conducting a thinning to generate revenue for additional forest management practices. Once the plan was approved by the easement holder we proceeded to mark and market the timber for sale. When applying for the harvesting permit with the township, the application process was excessive but surmountable since most of the documentation had been completed as part of the easement requirements. After some initial difficulties with the application, due to the township staff's lack of experience with timber harvesting permits, we were told that it was accepted for review on September 23, 2021. On November 8, 2021, we received a response from the township that they were denying our permit until specified requirements were met (Exhibit B). We then asked for further clarification as to the scope of the requirements in the denial letter and if the township had legal authority in some of these instances, see (Exhibit C). Once the township reviewed our questions, we received the latest denial letter on December 13, 2021 (Exhibit D). After additional conversation with township staff regarding the second denial letter we were told to submit a Zoning Hearing Board application for a variance in order to proceed with the permit process. They still have not informed us of the grounds for or the required "acceptable" amount of the bond.

Once again, we feel the Upper Makefield Township forestry ordinance is excessively restrictive as a whole but would like to focus on the issues currently preventing us from proceeding the harvest.

According to section 803.A.A-3.6.h "No forestry/logging use shall be permitted within areas with slopes of 8% or greater." According to the township this extends to cutting any tree for any reason regardless of if grubbing, grading, or building is to follow or not. We feel that this restriction is unjustified and far exceeds best management practices. Since the middle of the 30-acre property has a slope greater than 8% this restriction would render much of the property inaccessible to harvest.

According to section 803.A.A-3.7 of the Upper Makefield Township forestry ordinance "Financial security shall be established in a manner acceptable to the applicable Township to guarantee repair of all damage that may occur to public streets due to the forestry/logging operations, and to guarantee compliance with erosion and sedimentation control plans, compliance with stormwater management plans and restoration of the site upon completion of logging operations. Pursuant to 67 Pa.Code, Chapter 189, the applicable Township may also require the landowner or operator to furnish a bond to guarantee the repair of such roads." There are three issues that we have with their requirement for a bond under this section. First, we are using the landowners existing driveway to access the timber and there are no posted roads along the haul route that would require a bond under 67 Pa.Code, Chapter 189. So far as we have found timber harvesting is the only activity required to furnish a bond for damage to public streets without regard to posted weight limits. Second, it is our understanding that the Bucks County Conservation District has sole jurisdiction under the Pennsylvania Department of Environmental Protection to regulate and enforce the erosion and sediment control plan in this situation. Requiring a bond for the enforcement of regulations that are not under township jurisdiction is redundant and excessive. Lastly, the requirement of "restoration of the site upon completion of logging" if not in reference to erosion and sediment control measures is extremely vague and/or excessive in an attempt to dictate silvicultural practices on the property. We have not received any clarification on the ground of the required bond or the required amount perhaps due to the vague nature of the ordinance.

Once again, we feel these restrictions far exceed the authority of Upper Makefield Township to regulate forestry practices and are in violation of ACRE. We wish to have the ordinance review by your office so that we can have the matter clarified to the township and settled in order to proceed with the timber harvest. Thank you for your attention to this issue and we look forward to receiving your response.

Thank you,

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