

ADMITTED

3. The Subject Property is zoned Residential Agriculture.

DENIED. By way of further answer, the [REDACTED] property is zoned "Low Density Residential". Lake City Borough does not have a Residential Agriculture zone. Lake City has 3 different residential zones: R-A, R-B, and R-C. The letters "A", "B", and "C" are not abbreviations of words but rather refer to the density level of the residential zoning district. The R-A District is "low-density residential" (maximum of 4 units per acre). The R-B District is "medium-density residential" (maximum of 6 units per acre). The R-C District is "high-density residential" (maximum of 8 units per acre). The [REDACTED] property is zoned R-A (low-density residential). Contrary to the [REDACTED] assertion, the zoning of the Subject Property does not permit the housing of farm animals. The R-A District consists of "single-family residential structures with a minimum one-car garage and includes associated public, institutional and recreational uses."

#### LEGAL APPLICATION

[REDACTED] claim that their desire to house chickens on the Subject Property is protected by the Pennsylvania Right to Farm Act. This legal claim is misplaced. The Pennsylvania Right to Farm Act protects existing farms from harm caused by rezoning and the expansion of nonagricultural land uses. Since 1972, Lake City Borough has prohibited the keeping of farm animals inside the Borough limits. The applicable sections of Lake City's Zoning Ordinance which zoned the [REDACTED] property as Residential were enacted on or about January 20, 1997. The Subject Property was not historically used for farming or agriculture, and has not been rezoned. [REDACTED] introduced chickens onto the Subject Property in February 2022. The Borough became aware of the chickens in March 2022 after receiving a complaint. The Borough is not harming a longstanding farming operation. Rather, the Borough is simply prohibiting [REDACTED] from bringing farm animals into a residential neighborhood.

The Agricultural Communities and Rural Environment statute ("ACRE") is not implicated by Lake City Borough's enforcement of its ordinance against [REDACTED]. ACRE preempts local ordinances that seek to prohibit or restrict agricultural operations of a farming business. [REDACTED] do not operate a farm and they do not produce or sell agricultural commodities as defined by ACRE. They do not engage in agricultural commerce. Therefore, the enforcement of the Lake City Borough Ordinance against [REDACTED] is not prohibited by ACRE.

The Right to Farm Act states that its purpose is the conservation, protection and encouragement of "the production of food and other agricultural *products*." 3 P.S. §951. Its focus is the farming industry. As observed by the Pa. Superior Court, the "statute is a paean to agribusiness." Burlingame v. Dagostin, 183 A3 462, 465, fn. 3 (Pa. Super. 2018). In furtherance of goal of encouraging the business of farming, ACRE seeks to prohibit local government prohibition or

interference in the production of agricultural commodities. Under ACRE, a local government may not adopt nor enforce an "unauthorized local ordinance", (3 Pa.C.S.A. §313), which is defined as an ordinance which:

(1) Prohibits or limits a *normal agricultural operation* unless a local government unit:

(i) Has expressed or implied authority under state's law to adopt the ordinance; and

(ii) it is not prohibited or preempted under State law from adopting the ordinance.

3 Pa.C.S.A. §312 (Definitions)(emphasis added).

The definition of "normal agricultural operations" includes those "activities, practices, equipment and procedures that *farmers* adopt, use or engage in the *production and preparation for market* of poultry . . ." 3 P.S. §952 (Definitions)(emphasis added).

A "farmer" is a person "engaged in the production of agricultural commodities." 3 P.S. §2402 (Definitions). In turn, an "agricultural commodity" is limited to those farm products which are "transported or intended to be transported in commerce." 3 P.S. §952 (Definitions). The express terms of the statute make it clear that its reach is limited to farms engaged in commerce and who are thus producing commodities to sell in the market place. In this way, the statute fosters and protect "the production of food and other agricultural products." 3 P.S. §951.

In contrast to the farms that are covered by ACRE, [REDACTED] clearly are not engaged in the production of any agricultural products for sale in the market place. They do not produce agricultural commodities that are "transported or intended to be transported in commerce." They do not operate a chicken farm. They have not been engaged in the farming business. At most, they owned less than a dozen chickens and they did not sell any eggs or chicken products. As such, ACRE does not apply to [REDACTED] act of housing of chickens.

For the reasons set forth above, the Borough respectfully requests that you deny [REDACTED] request and find that the application of the Lake City Borough Ordinance to [REDACTED]

Robert Willig  
August 15, 2022  
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does not implicate nor run contrary to ACRE. I thank you for your consideration of this response.  
Please contact me if you have any questions or concerns.

Very truly yours,

[Redacted signature]

By: \_\_\_\_\_

[Redacted signature]

[Redacted]  
cc: Lake City Borough