

June 15, 2022

By e-mail

Robert A. Willig
Senior Deputy Attorney General
PA Office of Attorney General
Litigation Section
Attention: ACRE
1251 Waterfront Place, Mezzanine Level
Pittsburgh, PA 15222

RE: ACRE Petition for review of Municipality of Monroeville Timbering Harvest Fee and Timber Ordinance on Website

Dear Senior Deputy Attorney General Willig,

The [REDACTED] (hereinafter [REDACTED] and [REDACTED] of Monroeville, Pennsylvania requests a review and legal challenge by the Office of the Attorney General (OAG) of the Municipality of Monroeville Timbering Harvest Fee, Ordinance 2754 that was passed December 14, 2021, and the enforcement of this local ordinance under the Pennsylvania's Agriculture, Communities and Rural Environments (ACRE) law, Act 38 of 2005. The [REDACTED] also request that the OAG review the Municipality of Monroeville's webpage that references requirements for Timber Harvesting (Ordinance 2529), which is the "old," non-complaint ordinance that the OAG required them to change, not the ordinance that is in compliance with ACRE. Additional details are provided below.

Municipality of Monroeville Timbering Harvest Fee, Ordinance 2754

The [REDACTED] is a group of 12 local residents of Monroeville who challenged the Municipality of Monroeville Timber Harvesting Ordinance in September 2013 and paid a fee of \$1000 to obtain the timbering permit as this was based on a conditional use. We conducted our timbering operation in 2017. With the change in the Monroeville Timber Harvesting Ordinance, [REDACTED] submitted for a timbering permit in 2018 and paid a fee of \$4000 to harvest timber on two parcels. Following the [REDACTED] challenge of the Timber Harvest Ordinance the Municipality of Monroeville increased the fee to \$2000 per parcel.

[REDACTED] reviewed documents (Fact Sheet: PA ACREA Law and a Summary of Attorney General Positions on Timber Harvesting, ACRE Review Requests for Lower Saucon Township and North Coventry Townships, and newspaper article PA takes the ax to North Coventry Logging Law) as it relates to timber permit fees. Based on these documents with the OAG indicating permit fees should be in the \$100 range [REDACTED] and [REDACTED] requested a review and legal challenge on March 16, 2021 of the Municipality of Monroeville Timbering Harvest Fee that was part of, Ordinance 2730 passed on December 22, 2020. The Municipality of Monroeville was cced on this requested review and legal challenge.

Prior to the [REDACTED] and [REDACTED] request for a review and legal challenge by the OAG, the [REDACTED] left a voicemail with the Monroeville Municipal Manager to request providing information to him about the timbering permit fee in June 2020. The zoning office returned the call and the documents mentioned above were provided to him. The [REDACTED] requested that the zoning officer

provide us with feedback after the municipality had a chance to review the documents. No feedback was provided.

The timbering permit fee in Ordinance 2730 fee was \$2000 for each parcel of land and the ordinance also indicates that miscellaneous fees can be charged, "The Municipality reserves the right to assess additional costs for engineering review, legal, and Expert service when deemed necessary." Based on the request for a review and legal challenge the OAG corresponded with the Municipality of Monroeville and the Municipality of Monroeville responded stating that the municipal council's March 9, 2021, meeting began the process of amending the fee schedule. During this meeting Mr. Hugus reported that there was an "oversight" (quotes added) in the fee schedule passed in December for timber harvesting and that the fee reflects when it (timber harvesting) was deemed a conditional use application. During the municipal council's April 13, 2021, meeting Ordinance 2736 was passed amending the fee schedule for timber permits.

Each year in December municipal council passes a fee schedule ordinance for the following year. On December 14, 2021, they passed Ordinance 2754 that established the 2022 fee schedule. The passed Timbering Harvesting Fee for Minor Timbering is \$200 and Major Timbering is \$2000 and includes "miscellaneous fees that Monroeville reserves the right to assess for engineering review, legal and expert service" when deemed necessary. Another "oversight" by the Municipality of Monroeville? Attached is the Monroeville timbering fee ordinances and municipal council meeting minutes that is discussed above from Ordinance 2730 in December 2020 to present.

The Municipal Planning Code expressly prohibits townships from charging a landowner excessive fees for reviewing plans during the permitting process in administering a zoning ordinance and it is tantamount to unlawfully converting a permitted by right application to conditional use. [REDACTED] and [REDACTED] are requesting that the excessive timber permit fees previously paid for the timbering permits in 2017 and 2018 be returned to us as the fees that were charged at the time of our applications the Municipality of Monroeville was unlawfully converting the timbering application into one of a conditional use (challenged in the original review) instead of a permitted use by right. The fees that were paid were unlawful according to the Municipal Planning Code and an "oversight" by the Municipality of Monroeville.

Timber Harvesting Requirements on the Municipality of Monroeville's Webpage

If you go to the Monroeville website (screenshot attached) for the Building and Planning Department (<https://www.monroeville.pa.us/building-and-planning>) and you look at the requirements for Timber Harvesting, you download the Timber Harvesting Ordinance (Ordinance 2529) which is the "old," non-complaint ordinance that the OAG required them to change, not the ordinance that is in compliance with ACRE. Another "oversight" or Monroeville trying to limit timbering?

We believe that the Municipality of Monroeville continues to over step its authority (these are not "oversights"). [REDACTED] and [REDACTED] are requesting that the OAG and AG Shapiro require the Municipality of Monroeville to provide refunds for the excessive Timbering Permits fees paid pre 2021 since the Municipality of Monroeville was unlawfully converting the timbering application into one of a conditional use even though it is not part of the ACRE law. The Municipality of Monroeville needs to do the right thing based on the Municipal Planning Code.

The [REDACTED] brings this to your attention as we will be planning to timber our property again and these are issues that we do not want to address when we submit our Land Disturbance Application. If you have any questions or require any additional information regarding this request please contact [REDACTED] and [REDACTED] by the e-mails below.

Signed,

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

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

CC:

[REDACTED]

Attachments: Municipality of Monroeville Timbering Harvest Fee, Ordinance 2754 and Timber Harvesting Requirements on the Municipality of Monroeville's Webpage