

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

Member Pa. and NJ Bars

[REDACTED]

April 1, 2023

Mr. Robert A. Willig
Senior Deputy Attorney General
1251 Waterfront Place
Mezzanine Level
Pittsburgh, PA 15222

Dear Mr. Willig,

As discussed in our e-mail exchange, enclosed you will find an ACRE Complaint of my own construction detailing my client's issues with Tinicum Township. My client would appreciate anything that your office can do to assist. He believes that he is on firm legal ground, and that State law does prevent the Township from ordering him to cease and desist his farm stand and winery inasmuch as he comports with all requirements allowing him to operate as he does. Your timely response is greatly appreciated.

Respectfully Yours,
[REDACTED]

ACRE LAW - COMPLAINT

[REDACTED] bought their 11+ acre farm, located at [REDACTED] in 1991. They began selling produce out of a 900 square foot pole barn that came with the property in 1993. They grow grapes, fruit trees, berries, eggs, tomatoes, and various other fruits and vegetables. In 1999, they were permitted by the Liquor Control Board to operate a Limited Winery from this property. They have operated all of the above since 1999 without incident or complaint.

On August 16, 2022, an Enforcement Notice was issued to the [REDACTED] by the Tinicum Township Code Enforcement Officer to cease and desist all operations at the farm due to what were mistakenly perceived to be various violations of Tinicum Township Zoning Ordinances. (See attached Enforcement Notice).

By way of response to the allegations contained in the Enforcement Notice, the [REDACTED] would first reiterate that they have operated a farm stand on the property since 1993 and a limited winery since 1999 without any complaints from the community or untoward incidents. They have operated from a 900 square foot pole barn that has not undergone any structural changes that would require building or construction permits since 1991. In accordance with state "farm stand" requirements, 25% of the four sides of the structure is open to the outside. (See P.L. 353, No. 35). Customers do partake of "wine tastings" in the barn during inclement weather.

They are accused by the Township of operating a "retail shop, eating place and tavern" without a Certificate of Occupancy from the Township. The [REDACTED] would first respond by informing those concerned that the PA Liquor Control Board REQUIRES operators of limited wineries where there is on-site consumption of the wine produced on the property to provide food and snacks. The Liquor Control Board also PERMITS the sale of a long list of other products so long as they are 1) manufactured in Pennsylvania 2) amount to no more than 50% of what is sold from the winery. (See attached LCB handout). They would also aver that they comport in every particular with the ACRE Law and the Right to Farm Act in that they reside on the property and sell what they produce on the property. They do not sell or provide meals, nor do they cook and serve food.

On September 6, 2022, summary offense cases were filed against [REDACTED] separately, as individuals, thereby doubling their exposure to potential penalties. On November

10, 2022, a summary trial was held in the local magisterial district court, and the [REDACTED] were found guilty of being in violation of the local codes. A timely appeal was filed to the Common Pleas Court in Bucks County and that matter is now pending, scheduled to be heard on April 28. They are exposed to potentially tens of thousands of dollars in fines that would effectively end their business.

It is the [REDACTED] contention that these enforcement actions by Tinicum Township are violating their rights as farmers under the ACRE Law, the Right to Farm Act, and the Limited Winery rules set forth by the Liquor Control Board. They have not been faced with any Township "code enforcement" issues during 30 years of operation. They are specifically requesting intervention by the State Attorney General's Office to save their farm stand/winery. It is their livelihood and has been for 30 years.

[REDACTED]

TINICUM TOWNSHIP

BUCKS COUNTY

163 Municipal Road

Pipersville, PA 18947

Phone (610) 294-9154

ZONING OFFICE

ENFORCEMENT NOTICE

Date of Issuance: August 16, 2022

To: [REDACTED] (Owner of record)

Mailing Address: [REDACTED]

Location of Property in Violation:

[REDACTED]
(Bucks County [REDACTED])

Delivered: ☐ In person to Owner of Record
☒ By Regular and Certified Mail

It was brought to this office's attention that there are three (3) non-permitted rental use (H3) exists at the Property. In accordance with section 616.1, Pennsylvania Municipalities Planning Code, and Article XIII, Section 1300 (h), of the Tinicum Township Zoning Ordinance:

THIS IS A STOP, CEASE, AND DESIST ORDER TO CORRECT ALL CONDITIONS FOUND TO BE IN VIOLATION OF THE TINICUM TOWNSHIP ZONING ORDINANCE. IT SHALL BE UNLAWFUL FOR ANY PERSON TO VIOLATE ANY SUCH ORDER ISSUED LAWFULLY BY THE ZONING OFFICER, AND ANY PERSON VIOLATING ANY SUCH ORDER SHALL BE GUILTY OF A VIOLATION OF THIS ORDINANCE.

Specific Violations:

1. Altering and changing the use of the existing B1 with an H1 (Home Occupation Permit) without approval on the subject property, without first securing a Zoning Permit from the Zoning Officer is in violation of Section 1302 of the Tinicum Township Zoning Ordinance.
2. Occupying a structure which has undergone a change in use from storage building to a retail shop without first receiving a Certificate of Occupancy from the Zoning Officer is in violation of Section 1306 of the Zoning Ordinance.

3. Operating an E1, E4, and E11, (Retail Store, Eating Place, and Tavern) without approval on the subject property, without first securing a Zoning Permit from the Zoning Officer is in violation of Section 1302 of the Tinicum Township Zoning Ordinance.
4. H7 (signs) Installing signs without first securing a Zoning Permit from the Zoning Officer is in violation of Section 1302 of the Tinicum Township Zoning Ordinance.

In accordance with Article XVI, Section 1602 (c) of the Tinicum Township Zoning Ordinance you are to commence corrections of these violations within five (5) days of this notice and correct all violations within thirty (30) days of notice. If corrections are not commenced within five (5) days or completed within thirty (30) days, each day that a violation continues shall be considered a separate offense punishable by the like fine or penalty.

You have the right to appeal this enforcement action to the Tinicum Township Zoning Hearing Board. YOU MUST FILE THIS APPEAL WITHIN THIRTY (30) DAYS OF THE DATE OF ISSUANCE OF THIS NOTICE.

Failure to comply with this notice within the time specified, unless extended by appeal to the Tinicum Township Zoning Hearing Board within 30 days of this notice, constitutes a violation, and is subject to a fine of up to \$500.00 per day, pursuant to the procedures set forth in the Tinicum Township Zoning Ordinance, Article XVI.

You should take the following action immediately:

Respond to me in writing within five (5) days acknowledging this cease and desist order and stating what actions you have taken to comply with the Zoning Ordinance. If this reply in writing is not promptly received at the Tinicum Township Municipal Office, 163 Municipal Rd., Pipersville, PA 18947, or if you do not take appropriate corrective action within thirty (30) days, I shall recommend to the Township Board of Supervisors that Civil Action be filed against you with the Bucks County District Court.

Sincerely,


Keystone Municipal Services, Inc.
Tinicum Township Zoning Officer

cc: Property File



Bucks County Board of Health Department

Limited Wineries

A limited winery license can be held by any qualifying in-state or out-of-state winery that produces less than 200,000 gallons per year of alcoholic ciders, wines, meads, wine coolers and fermented fruit beverages. Each limited winery may have up to five board-approved locations and up to two storage locations. Limited wineries may sell their products – in any quantity and for both on and off-premises consumption – to individuals, the PLCB and licensees such as breweries, hotels, restaurants, clubs and public service liquor licensees. They are permitted to sell Pennsylvania-manufactured wine, spirits and malt or brewed beverages for on-premises consumption, not to exceed 50% of on-premises sales of the limited winery's own wine. Limited wineries may provide visitors on the licensed premises with tastings of wine at no charge, or they may opt to charge for tastings.

Limited wineries are also permitted to sell food for consumption on or off the licensed premises and at board-approved additional locations. A limited winery licensee may also sell Pennsylvania-grown fruits and juices, juice concentrates, jellies, jams and preserves from those fruits; Pennsylvania-grown mushrooms; home winemaking equipment and supplies; cork removers; wine glasses, decanters, wine racks, serving baskets and buckets; bottle stoppers; publications dealing with wine and wine making; cheese, crackers, breads, nuts and preserved meats; gift packages with any of the items previously mentioned; and promotional items.

A limited winery may acquire a direct wine shipper license, which allows a winery to accept orders by mail, telephone and the internet and ship their products to individual consumers. Direct wine shippers may deliver their products directly to non-licensee customers and may hire licensed transporters-for-hire to deliver their products to customers.

For information regarding federal licensing requirements for wineries, please consult with the

Bureau of Alcohol and Tobacco Tax and Trade 

Additional Information

Monthly Report

(<https://services.agriculture.pa.gov/PACommodities/>)

Monthly Report Instructions

([/Licensing/ResourcesForLicensees/Documents/003389.pdf](https://licensing/resourcesforlicensees/Documents/003389.pdf))

Renewal/Validation

(<https://plcbplus.pa.gov/public/Login.aspx>)