

January 30, 2024

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

Re:ACRE Complaint – Greene Township, Clinton County

Dear Mr. Willig:

I write to request that the Pennsylvania Office of Attorney General (“OAG”) investigate Greene Township’s (“Township”) unauthorized, onerous interpretation and application of its Subdivision and Land Development Ordinance (“SALDO”) against my company [REDACTED] and our attempt to construct a calf-barn to serve our principal dairy business. The Township has demanded that we go through planning to obtain a permit for the barn despite the clear exemption for the barn from “Land Development” under the Township SALDO as a “farm building” and our dairy operation being a clear “agricultural use.” The Township’s demand places our operation at great risk and expense. We have been forced to accede to the Township’s onerous and illegal planning requirements for nearly six months and many thousands of dollars. As a result, our barn materials and concrete-barn construction crews were forced to lose the entire summer construction season.

For some background, [REDACTED] has run a dairy operation at [REDACTED] in [REDACTED] Pennsylvania since the 1950s. The current dairy operation includes, among other structures, multiple barns for feeding cows and calves. In fact, there are two other barns on the same parcel where we’d like to build the new calf barn, and the Township issued a zoning permit for one of the barns (which is identical in design to the planned barn) just two years ago. The operation includes over 1,300 cows, plus young stock, and produces over 1,2000 gallons of milk per day. [REDACTED] owns multiple trucks to transport its product to customers – often a dozen or more loads per week. Further, the property where [REDACTED] operates

is enrolled in the Pennsylvania Clean and Green program, is in an Agricultural Security Area recognized by the Pennsylvania Department of Agriculture, and is zoned agricultural under the Township's zoning ordinance.

In March 2023, we sought zoning approval for the barn under the Township's Zoning Ordinance. Upon learning of [REDACTED] intent to build a barn to house calves on a parcel adjacent to the principal dairy business, the Township demanded that our company also obtain a planning permit under its SALDO. I asked for the Township's basis for such a demand but was generally stonewalled and told that I would need to go through the planning process. At one point, the Township confusingly insinuated that the calf-barn would be a "principal" use that does not serve our dairy operations. This is clearly incorrect and surprising given our company's long-standing role in the community. The Township advised me that I would have to wait for a planning meeting but that scheduling it would take a few months. I was also advised that one alternative would be to combine two parcels – that is, one where the dairy operation is located with the proposed barn. However, upon learning that this would take a year because of the necessary surveying that would have to be done, we chose the third alternative that the Township legal counsel offered, which was a parcel extension that I was led to believe would take a month. Instead, it resulted in a delay of four additional months because of constant rejections from the Township. In total, [REDACTED] has been delayed by about 6 months.

It is my understanding that [REDACTED] dairy operation fits clearly within the definition of "normal agricultural operation" under the Agriculture, Communities and Rural Environment act ("ACRE"), and is to be protected from an "unauthorized local ordinance." In addition, the Township SALDO clearly exempts our planned barn from its definition of "Land Development." The SALDO defines the term to specifically exempt "[t]he addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal residential building or agricultural use." (emphasis added).

The Township SALDO defines "accessory building" to mean:

Building, Accessory: A detached subordinate building located on the same lot as the principal building, serving a purpose customarily incidental to the use of the principal building.

And it defines "Farm Building" to mean:

A detached accessory structure, whether fully or partially enclosed, intended to provide housing, shelter, enclosure or support for animals, farm equipment, farm supplies or produce; grain, feed, etc. Such building shall be incidental and accessory to the type of farming activities conducted upon the property containing the building or on other properties owned or leased by the same farmer, and shall not be used for residential purposes. (emphasis added).

Finally, while the SALDO does not define "agricultural use," it does define the following two relevant terms:

- Agricultural Purpose: The use of land or the purpose of producing agricultural commodities, which shall include but not be limited to: growing grains, fruits, vegetables, nursery plants, Christmas trees, or timber, raising poultry or livestock; or producing agricultural commodities through greenhouse production. In some instances the use of land for agricultural purposes may involve the construction of barns, silos, feed lots and/or farm-related accessory buildings. (emphasis added).

- Agriculture: The use of land for agricultural purposes, including crop farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, aquaculture, forestry, and animal and poultry husbandry, and the accessory uses for packing, treating, and storage of produce; provided however that the operation of any such accessory use shall be secondary to that of the normal agricultural activities. (emphasis added).

Our purposed calf barn, with legal set-backs from property lines, is clearly an "accessory building" and a "farm building" because the barn will service the principal dairy operation and will enclose and support the calves. Further, our operation is clearly an "agricultural use" because we will be using the land for livestock and dairying. Finally, the barn will be located on a lot that is subordinate to the principal lot, qualifying the barn as exempt from the definition of "Land Development."

It is our understanding that ACRE exists to prohibit an "Unauthorized local

ordinance," which includes an "ordinance . . . enforced by a local government unit which . . . (2) Restricts or limits the ownership structure of a normal agricultural operation." The Township's interpretation of its SALDO to include our planned barn, notwithstanding the clear exemption from planning outlined above, puts our agricultural operations at great risk. We believe that the Township has no legal right in this circumstance under our current laws to demand planning, parcel combinations or parcel extensions. When asked multiple times for a legal basis within the context of the SALDO for its withholding and denying of a permit for six months, their reply was that they could ask for whatever they (i.e., the Greene Township Supervisors, engineer [REDACTED] and legal counsel [REDACTED] [REDACTED] wanted within reason. With respect to ACRE, it is our opinion that this very circumstance – the Township's unreasonable application of its SALDO – represents the unauthorized enforcement of its SALDO that severely limits [REDACTED] ability to operate and lawfully expand its business.

We appreciate your attention to this matter and look forward to your assistance.

Sincerely,

[REDACTED]  
[REDACTED]  
[REDACTED]