

[REDACTED]
[REDACTED]
Lower Milford Township, Lehigh County
[REDACTED]

October 30, 2024

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

ACRE Request for Review, Lower Milford Township, Lehigh County

I own and operate a small farm with my partner [REDACTED] in Lower Milford Township (LMT). We started a multi-faceted farming operation in 2020 to be able to support ourselves while living off the land and promoting Pennsylvania produce. We live on a 3.8 acre property in LMT's RR-1 District (we were Agricultural Rural District when I purchased the property). Our farm borders another farm of 40 acres, and a few other low density tracts. Lower Milford Township has always been an agricultural community. Our primary normal agricultural operation is wine production. We grow grapes as well as fruits to make wine both at our farm and on a locally leased vineyard. Our secondary business is the raising of Dorper sheep for outside lamb sales since January of 2023. We have the lambs processed at a local USDA butcher, and sell frozen lamb at local farmers markets.

We also raise a handful of dairy goats for milk production, as well as a few chickens and ducks for egg sales in our roadside farm stand.

Our wine production was licensed on our farm in September 2023 by the PA Liquor Control Board. A copy of our license was sent to Lower Milford Township, after which we received a notice of violation. LMT's Zoning Ordinance does not allow for a winery in the RR-1 District. We told the township that we did not have plans to sell wine to the public on our property (although the LCB and the Right to Farm Act allow this). LMT advised us that we would still be considered a winery, and enforcement action would ensue if we did not apply for a variance. At great expense, we outsourced production, but continued to grow grapes and fruit and sell our wine at local farmers markets under an approved LCB Farmers Market Permit.

On August 19th, 2024, we received a notice of violation from LMT, stating that "a winery is not a permitted use within the RR-1 zoning district and constitutes a violation of the Ordinance". They further continued that "...the keeping of large and medium sized animals is not permitted in the RR-1 district and is in violation of the Zoning Ordinance". LMT views our livestock as pets, and the excerpt of the Zoning Ordinance used to justify their notice, Article XII, Section 1200, Subsection A.9 "Common Domestic Farm Animals as Pets", does not apply to our use of the animals.

In Lower Milford Township, agriculture is a permitted use by right in the RR-1 district. (Article V, Section 501 A.2) Agriculture is defined in Article II Section 201 as "The cultivation of the soil and the raising and harvesting of the products of the soil including but not by way of limitation, raising of grains, vegetables and fruits; vineyards; nurserying; horticulture; forestry; beekeeping; and animal husbandry of common domestic animals and birds such as cows, sheep, hogs, goats, rabbits, chickens, ducks, turkeys, pigeons and of other animals and birds including llamas, alpacas, emus, rheas, and similar non-predatory animals and birds".

In the Zoning Ordinance's Supplemental Regulations, (Article XII, Section 1200, 2), Animal Husbandry is separated from Agricultural use and restricted to parcels in the AC, RC, and RR-2 districts with a minimum parcel size of 10 acres.

We believe that the supplemental regulations of animal husbandry in the RR-1 district violate the ACRE program and RTFA. It is our understanding that Agriculture is protected on a farm that is "less than ten contiguous acres in area but has an anticipated yearly gross income of at least \$10,000." (RTFA: 3 PA. C.S. §951). We currently sell about \$300 of frozen lamb cuts per week at one farmers market. We participate in four farmers markets with our wine sales, but do not currently have enough lamb to serve all of them. We anticipate lamb sales of over \$20,000 next year. Our wine sales currently hover between \$3,000-\$4,000 weekly during peak farmers market season. We have sold over \$45,000 this year, and anticipate sales of \$80,000 next year, far exceeding the RTFA's \$10,000 threshold.

We humbly ask that the Office of the Attorney General would confirm the following interpretations of the ACRE law and the Right to Farm Act.

*Growing grapes and producing wine, as well as raising sheep for meat production are normal agricultural operations protected by ACRE and the RTFA.

**The Municipalities Planning Code precludes a municipality from enacting a zoning ordinance regulating agricultural activities if it exceeded the

requirements imposed by the RTFA. As long as a farmer anticipates more than \$10,000 income a year, acreage requirements are inapplicable." (Attorney R. Willig)

*"Direct commercial sales of agricultural commodities upon property owned and operated by a landowner who produces not less than 50% of the commodities sold shall be authorized, notwithstanding municipal ordinance, public nuisance or zoning prohibitions." (3. P.S. § 953) Such normal agricultural operations are permitted under state law, even in LMT's RR-1 district.

Our farm is not a detriment to Lower Milford Township. To our knowledge, there have been zero complaints. We wrote a letter for our neighbors in our township, stating that they support our agricultural activities and have no issues with our operation, and all of them signed. It is our opinion that ACRE and RTFA protect our normal agricultural operations, especially in a district where agriculture is permitted by right.

We would appreciate the OAG's review of our complaint, and any direction you would give to Lower Milford Township.

Sincerely,

[REDACTED]

[REDACTED]