MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD
RESOLUTION 2014-19

RIGHT TO FARM CONFLICT RESOLUTION
FINDINGS AND RECOMMENDATIONS

VINCENT CARRABBA AND LISA LANDI
5 THACKERY LANE
TOWNSHIP OF MENDHAM, MORRIS COUNTY, NEW JERSEY

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-10.1(a) and the State Agriculture Development Committee's Right to Farm Rules, N.J.A.C. 2:76-2.7(a), any person aggrieved by the operation of a commercial farm shall first file a complaint in writing with the applicable county agriculture development board or the State Agriculture Development Committee ("SADC") in counties where no county board exists, prior to filing an action in court; and,

WHEREAS, on April 15, 2014, the Morris County Agriculture Development Board ("Morris CADB") received a complaint filed by John M. Mills, III, Esq., Attorney for the Township of Mendham, against Mr. Vincent Carrabba and Ms. Lisa Landi of Mendham Township ("Carrabba Complaint") (M-1); and

WHEREAS, Mr. Carrabba and Ms. Landi are the owners of the premises located at 5 Thackery Lane, Mendham Township; and

WHEREAS, the Carrabba Complaint states that Mr. Carrabba and Ms. Landi breed and sell dogs on a property of approximately three (3) acres ("Carrabba Property"); and

WHEREAS, pursuant to N.J.A.C. 2:76-2.7(e), if the Carrabba Complaint concerns activities that are not addressed by an agricultural management practice recommended by the SADC or a site specific agricultural management practice adopted by the CADB, the CADB shall contact the farm owner to provide evidence that the agricultural operation is a commercial farm pursuant to N.J.A.C. 4:1C-3; and

WHEREAS, on April 21, 2014, the Morris CADB contacted Mr. Carrabba and Ms. Landi to provide evidence that their operation is a commercial farm (B-1). Due to lack of a response from Mr. Carrabba and Ms. Landi, a subsequent request was mailed on June 16, 2014 (B-2); and

WHEREAS, during the July 10, 2014 meeting, Ms. Erika Kantor, a neighbor of Mr. Carrabba and Ms. Landi, addressed the CADB during the "Open to Public for Non-Agenda Items" portion of the meeting, and on July 14, 2014, Ms. Kantor submitted her comments in writing via e-mail (N-1); and

WHEREAS, on July 31, 2014, the Morris CADB received a letter from Scott Carlson, Esq., attorney for Mr. Carrabba and Ms. Landi (F-1); and

WHEREAS, pursuant to N.J.A.C. 2:76-2.7(c)1, the CADB shall determine commercial farm

eligibility; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.7(e)1, the CADB shall determine whether the dispute involves agricultural activity(ies) that is or are included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9; and

WHEREAS, if the CADB determines that the agricultural operation is a commercial farm pursuant to N.J.A.C. 4:1C-3 and the dispute involves agricultural activity(ies) that is or are included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9, then the CADB shall forward the complaint to the SADC requesting the SADC's determination of whether the disputed agricultural operation constitutes a generally accepted operation or practice; and

WHEREAS, if the CADB determines that the dispute does not involve a commercial farm that meets the eligibility criteria pursuant to N.J.S.A. 4:1C-9 and/or does not involve agricultural activity(ies) included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9, then the CADB shall dismiss the complaint; and

WHEREAS, on August 6, 2014, Ms. Katherine Coyle drafted a Staff Report regarding the Carrabba Complaint (B-3); and

WHEREAS, on August 7, 2014, W. Randall Bush, Esq. forwarded the Staff Report to Scott Carlson, Esq. and to John Mills, Esq. (B-4); and

WHEREAS, during the August 14, 2014 meeting, the Morris CADB reviewed exhibits M-1, N-1, F-1, and B-1 through B-4, as well as presentations by Mr. Mills and Mr. Carlson; and

INDEX OF EXHIBITS

Exhibits from Mendham Township:

April 15, 2014 complaint filed by John M. Mills, III, Esq., Attorney for the Township of Mendham M-1

Exhibits from Erika Kantor:

July 14, 2014 statement from Erika Kantor N-1

Exhibits from Vincent Carrabba and Lisa Landi:

July 31, 2014 letter from Scott Carlson, Esq. F-1

Exhibits from the Morris CADB:

April 21, 2014 Morris CADB request for Commercial Farm Certification B-1

June 16, 2014 Morris CADB request for Commercial Farm Certification B-2

August 6, 2014 Staff Report drafted by Katherine Coyle (without exhibits) B-3

August 7, 2014 W. Randall Bush, Esq. email to Scott Carlson, Esq & John Mills, Esq.....B-4

NOW THEREFORE BE IT RESOLVED, after having considered exhibits M-1, N-1, F-1, and B-1 through B-4, as well as presentations by Mr. Mills and Mr. Carlson, the Morris CADB makes the following determinations:

Commercial Farm Eligibility:

1. Pursuant to N.J.S.A. 4:1C-3, "commercial farm" means (1) a farm management unit of no less than five acres producing agricultural or horticultural products worth $2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), or (2) a farm management unit less than five acres, producing agricultural or horticultural products worth $50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

2. Because the Carrabba property consists of less than 5 acres, in order to meet the Right to Farm Act's definition of a "commercial farm," it must produce agricultural or horticultural products worth $50,000 or more annually and otherwise satisfy the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, P.L.1964, c.48 (C.54:4-23.1 et seq.).

3. In order to otherwise satisfy the eligibility criteria of the Farmland Assessment Act, the land must be actively devoted to **agricultural use**, and has been so devoted for at least two (2) successive years immediately preceding the tax year in question (N.J.S.A. 54:4-23.2).

4. Pursuant to the Farmland Assessment Act, N.J.S.A. 54:4-23.3, "Land shall be deemed to be in **agricultural use** when devoted to the production for sale of plants and animals useful to man, including but not limited to: forages and sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding, boarding, raising, rehabilitating, training or grazing of any or all of such animals, except that "livestock" shall not include dogs; bees and apiary products; fur animals; trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government, except that land which is devoted exclusively to the production for sale of tree and forest products, other than Christmas trees, or devoted as sustainable forestland, and is not appurtenant woodland, shall not be deemed to be in agricultural use unless the landowner fulfills the following additional

conditions..."

5. In his July 31, 2014 letter (F-1), Mr. Carlson stated that the Commercial Farm Certification Form will not be submitted to the CADB and that "5 Thackery Lane is not a "commercial farm" as defined by N.J.S.A. 4:1C-3".

Agricultural Activity:

1. According to Exhibit M-1, Mr. Carrabba and Ms. Landi allegedly breed and sell dogs at 5 Thackery Lane.

2. Pursuant to N.J.S.A. 4:1C-9, the owner or operator of a commercial farm may:

   "Produce agricultural and horticultural crops, trees and forest products, livestock, and poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping or, after the operative date of the regulations adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1), included under the corresponding classification under the North American Industry Classification System."

3. Pursuant to the "Farmland Assessment Act", N.J.S.A. 54:4-23.3, agricultural use includes the production of livestock, except that "livestock" does not include dogs. Accordingly, dogs are not an agricultural product.

4. The dispute involves activities related to the breeding and selling of dogs. Dogs are not considered to be livestock and are not an agricultural product. Therefore, the breeding, raising and selling of dogs are not considered agricultural activities. The breeding, raising and selling of dogs are not included on the list of permitted activities set forth in N.J.S.A. 4:1C-9.

BE IT FURTHER RESOLVED, based on the foregoing determinations, the Morris CADB finds that the Carrabba property at 5 Thackery Lane is not a "commercial farm" as defined by the Right to Farm Act, N.J.S.A. 4:1C-3.

BE IT FURTHER RESOLVED, that dogs are not considered to be livestock and are not an agricultural product. Therefore, the breeding, raising and selling of dogs are not considered agricultural activities. The breeding, raising and selling of dogs are not included on the list of permitted activities set forth in N.J.S.A. 4:1C-9.

BE IT FURTHER RESOLVED, that the Carrabba property at 5 Thackery Lane does not meet the eligibility criteria of the Right to Farm Act and is therefore ineligible for the protections of the Act.

BE IT FURTHER RESOLVED, that the Morris CADB lacks jurisdiction over activities occurring on the Carrabba property and dismisses the complaint. All activities occurring on the property are outside the purview of the Morris CADB and remain under the jurisdiction of applicable municipal, state or federal agencies.

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 2:76-2.7(g), certified copies of this resolution will be forwarded to the following individuals and agencies:

John M. Mills, III, Esq.
Amey Upchurch, Administrator, Mendham Township
Scott Carlson, Esq.
Vincent Carrabba and Lisa Landi
State Agriculture Development Committee
Morris County Board of Chosen Freeholders

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 2:76-2.7(k), any person aggrieved by the Morris CADB's decision may appeal the decision to the SADC within 10 days from the receipt of the CADB's decision. The SADC shall schedule a hearing and make a determination within 90 days of the receipt of the petition for review.

1. The decision of the SADC shall be binding, subject to the right of appeal to the Appellate Division of the Superior Court.

2. Any decision of the Morris CADB that is not appealed shall be binding.

Kenneth A. Wightman
~~Gregory Keller~~, Chairman
Morris CADB Vice

9/11/14
Date

	Yes	No	Abstain	Absent
Ms. Ashley Myers				✓
Mr. Davis	✓			
Ms. Davis			✓	
Mr. Desiderio				✓
Mr. Keller	✓			
Mr. Ort	✓			
Mr. Wightman	✓			

I hereby certify the above to be a true copy of a resolution adopted by the Morris County Agriculture Development Board at a meeting held on September 11, 2014.

Attorney at Law State of New Jersey