ATLANTIC COUNTY AGRICULTURE DEVELOPMENT BOARD
6260 Old Harding Highway
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(609) 625 - 3144

RESOLUTION OF THE ATLANTIC COUNTY AGRICULTURE DEVELOPMENT BOARD REGARDING A REQUEST FOR A DETERMINATION PURSUANT TO THE RIGHT TO FARM ACT FROM DOUGLAS WALKER (A/K/A SEVEN OAKS FARM) IN MULLICA TOWNSHIP

WHEREAS, pursuant to the Right to Farm Act, a commercial farm owner may make a request to the local County Agriculture Development Board to determine whether or not their operation constitutes a generally accepted agricultural management practice, and;

WHEREAS, on March 22, 2013, the Atlantic County Agriculture Development Board (ACADB)received a request for a determination pursuant to the Right to Farm Act, along with supporting documents, from an attorney representing Douglas Walker (a/k/a Seven Oaks Farm), located at Block 10602, Lot 14 in Mullica Township, more commonly known as 901 Darmstadt Avenue, and;

WHEREAS, the request surrounds the property owner's installation and use of a windmill structure used to provide power to an irrigation well serving the farm operation, and seeks a determination from the Board that the installation and use is covered under the Right to Farm Act and preempts the local regulation of certain wind power generation activities for his farm, and;

WHEREAS, the request included various documentation, including a Commercial Farm Certification Form, a letter from the applicant's accountant regarding income generation, a copy of a well permit obtained from the NJ Department of Environmental Protection, various correspondence from the Mullica Township Zoning and Code Enforcement Officer regarding the windmill structure, a copy of Summons #00165 for failure to obtain a permit, and a notice for a court date, and;

WHEREAS, on March 26, 2013, a letter was sent to the State Agriculture Development Committee (SADC) as well as Mullica Township, notifying these two agencies of the request, and;

WHEREAS, the Right to Farm Act provides a list of protected activities for eligible commercial farms, including the "...generation of power or heat from biomass, solar or wind energy, provided that the energy generation is consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et al.), as applicable, and the rules and regulations adopted therefor and pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2); and

WHEREAS, The Attorney General's Office has advised the SADC that CADBs may not consider SSAMP requests related to solar, wind or biomass energy until the SADC has adopted AMPs for these facilities and/or activities, and;

WHEREAS, the State Agriculture Development Committee has not yet adopted an AMP for wind energy through the administrative rule-making process, and;

WHEREAS, at its April 16, 2013 meeting, the ACADB considered the applicant's request only as it relates to the issue of jurisdiction in this matter.

NOW, THEREFORE, BE IT RESOLVED BY THE ATLANTIC COUNTY AGRICULTURE DEVELOPMENT BOARD AS FOLLOWS:

1. Based on the advice from the Attorney General's Office, the Atlantic County Agriculture Development Board may not consider requests involving the generation of power or heat from wind energy until the SADC adopts AMPs for these activities as required.

2. The Atlantic County Agriculture Development Board hereby dismisses, without prejudice, Mr. Walker's request based on the determination set forth herein.

3. All activities associated with the windmill structure remain under the jurisdiction of Mullica Township and other applicable local, state, or federal authorities.

4. Any person aggrieved by the decision of the Board concerning this decision may appeal the decision to the State Agriculture Development Committee in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 45 days from receipt of the ACADB's final determination, pursuant to N.J.A.C. 2:76-2.3. If this resolution is not appealed within 45 days, this resolution is binding.

Adopted April 16, 2013 by the Atlantic County Agriculture Development Board:

Jerry DeFiccio

Jerry DeFiccio, Chairman