

Example #1

A “Declaration of Restriction” prohibiting commercial dairy operations was recorded against a 6.5-acre portion of a 58 acre farm. [See Example 1 Map attached]. The county then acquired the development rights to the 58-acre tract and submitted a cost share grant application to the SADC. The SADC discovered the “Declaration” in the title work and advised the county that the restriction conflicted with the Agriculture Retention and Development Act, SADC regulations and the language of the farmland preservation deed of easement by constraining the landowner’s right to conduct permitted agricultural activities. Accordingly, the 6.5-acre restricted area was deducted from the state’s cost share grant calculation and the county received no reimbursement for that portion of the farm. Although no payment was made for the restricted area, the farmland preservation deed of easement covered that area in case the restriction was ever lawfully rescinded in the future.

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