
TOWNSHIP OF CLINTON,

STATE AGRICULTURE DEVELOPMENT COMMITTEE
SADC ID #1601

Petitioner,

v.

HUNTERDON COUNTY AGRICULTURE
DEVELOPMENT BOARD and VALLEY
CREST FARM & PRESERVE,

Respondents.

-and-

WALTER ERIKSSON and DIANE
ERIKSSON, husband and wife,

HEARING OFFICER'S REPORT

Petitioners,

v.

HUNTERDON COUNTY AGRICULTURE
DEVELOPMENT BOARD and VALLEY
CREST FARM & PRESERVE,

Respondents.

Overview

The issue in this case is whether the Right to Farm Act, N.J.S.A. 4:1C-1, et seq. (RTFA), protects weddings held at a fruit, vegetable and equine farm. This hearing report finds that there is no factual or legal basis in the record for approving RTFA protection of weddings at the subject farm.

The record in this case is comprised of some 500 pages of county agriculture development board and SADC hearing transcripts, several hundred pages of documents, materials and exhibits, and numerous legal briefs and memoranda, submitted by the parties to the county and the state. In addition, the report has taken administrative notice of facts set forth in available public records. N.J.S.A. 52:14B-10(b); N.J.A.C. 1:1-15.2; N.J.R.E. 101(a)(3); Re New Jersey Bell Telephone Company, 1992 WL 526766 (N.J.Bd.Reg.Com.).

Procedural history

Clinton Township (township) and Walter and Diane Ericksson (Erickssons) filed complaints in July and August 2014, respectively, with the Hunterdon County Agriculture Development Board (HCADB or

board) against Valley Crest Preserve, Inc. (Valley Crest or VCP), a non-profit corporation devoted to maintaining the land and trails on its property, providing agricultural education, and donating food to the hungry. The township's complaint asserted that Valley Crest was "[a]dvertising and catering weddings on [its] property" and must "[s]top all weddings or get a variance to continue". The Erickssons, who own and reside on an adjoining parcel, complained that weddings at the Valley Crest farm created a nuisance and devalued their property.

The HCADB held hearings on the complaints on July 9 and September 10, 2015 and issued a resolution dated October 8, 2015. The resolution concluded that weddings held at the Valley Crest farm were protected agricultural activities in accordance with the RTFA. The board reasoned that, because "there [was] a sufficient nexus between the sale of on-farm products and the weddings conducted at the Valley Crest [f]arm property", weddings were protected agricultural activities under the SADC's on-farm direct marketing agricultural management practice regulations.

The township and the Erickssons appealed the board's determination to the SADC on October 16, 2015. Both appeals disputed HCADB conclusions that: (1) the weddings conducted by VCP are protected activities under the RTFA; (2) the weddings are permitted under the on-farm direct marketing regulations; (3) Valley Crest may continue to hold weddings provided VCP complies with those regulations. The Erickssons' appeal also contained claims against Valley Crest of harassment, violations of SADC regulations governing on-farm disposal of organic animal waste, and building encroachments within property setback lines.

On December 10, 2015, the SADC authorized agency staff to conduct an administrative hearing limited to determining whether weddings at the VCP farm property were activities protected by the RTFA's on-farm direct marketing agricultural management practice regulations. The other issues raised in the Erickssons' appeal were forwarded to the Office of Administrative Law and are still pending.

The SADC held hearings on May 10 and 11, 2016. See, N.J.S.A. 4:1C-10.2; N.J.S.A. 52:14B-9. The hearings resulted in further questions about whether Valley Crest was a "commercial farm" as defined in N.J.S.A. 4:1C-3, so a supplemental hearing limited to that issue was held on October 11, 2016.¹

¹ The HCADB had previously determined that Valley Crest satisfied the "commercial farm" eligibility requirements in N.J.S.A. 4:1C-3 of farm size greater than 5 acres, annual agricultural production value of at least \$2500 based on FA-1 and IRS Schedule F forms from 2013 and 2014, and farmland assessment of the VCP property. This hearing report also finds, as more particularly described in the "Factual Background" section, that Valley Crest complies with statutory "commercial farm" eligibility criteria.

Factual background

Valley Crest owns three (3) farm properties totaling approximately 101 acres in Clinton Township. The three lots, which will be collectively referred to in this report as the "farm management unit", have been farmland assessed since at least 2009. The lot upon which weddings occur is a 75-acre property which is part of the farm management unit and is designated as Block 29, Lot 3. That parcel, which will be referred to as "the property" or the "farm property", was preserved by the township in 2008 without cost share grants from Hunterdon County and the SADC and is not enrolled as a preserved farm pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11, et seq. (ARDA). The farm property is located in the township's "Rural Conservation" zone in which agriculture is a permitted use. No winery is located on the property.

The township-approved FA-1 applications aggregate all of the land use classes and farming activities on the 101-acre farm management unit. The "Standard Supplemental Farmland Assessment Form" (SFA form) attached to the FA-1 applications for all 3 lots identify only Block 29, Lot 3 for acreage and income-reporting purposes.

The land use classes and number of acres in each class described on the SFA forms for Block 29, Lot 3 have not varied for tax years 2011 to 2014: 26.5 acres of cropland harvested; 28 acres of cropland pastured; 7 acres of wetlands; and 13.5 acres of wasteland. The SFA forms for those years have been almost uniformly identical with respect to the products from the 26.5 acres of cropland harvested: 6.5 acres of fruit generating annual income of \$10,000 and 20 acres of vegetables generating annual income of \$30,000. The fruit acreage has consistently been approximately 3 acres of apples, 2 acres of peaches and 1 acre of berries.

In 2015, income from agricultural production on the farm management unit was reported at over \$19,000, and a VCP witness testified that a majority of that income came from the fruit acreage on Block 29, Lot 3.

Mixed vegetable acreage listed on the FA-1 forms for Valley Crest's farm management unit has been devoted to a variety of small plots, each typically 1-acre or less. From 2011 through 2016, the FA-1 forms for the farm management unit reflect varying numbers of livestock such as goats, horses and ponies, alpacas, beef cattle and chickens; and the FA-1 forms also listed woodland products of cordwood and Christmas trees.

The VCP farm property has a "pick-your-own" fruit operation and contains an indoor and outdoor riding arena, indoor stalls for 15 horses, a children's paddock for riding horses, and what a Valley Crest witness called the "main barn" in which wedding celebrations occur.

The main barn has been classified by the township construction official as an agricultural storage, or "S-2", use in accordance with the Uniform Construction Code. As an "S-2" use, the main barn can house no more than 15 events of 50 or more people annually. See, N.J.A.C. 5:23-3.2(d)8. According to handwritten measurements on a "Location Floor Plan" dated September 15, 2014 submitted by Valley Crest in connection with the SADC hearing, the ground floor of the barn contains 2230 square feet for inside seating and dancing, a covered patio area of 1538 square feet, a 720 square foot overlook room, a kitchen area of 504 square feet, and a wood shop of about 1050 square feet divided equally between a shop area and classroom. A "Barn Gallery" containing woodcraft items available for purchase is also located within the structure. The remaining ground floor space in the barn, some 1830 square feet, is used for farm vehicle and other agricultural storage. The square footage of other barn space, storage additions and walkways, and of the upper story of the structure, were not readily apparent on the floor plan and were not measured because they did not bear upon the issues in this hearing report.

A VCP witness testified that Valley Crest decided to hold weddings beginning in 2011 to increase awareness of the farm property, increase sales of its produce, and provide a scenic background for celebratory life events. Wedding celebrations on the property occurred at the following frequency: 2011 - 1; 2012 - 5; 2013 - 7; 2014 - 13; 2015 - 6; 2016 - 7 (scheduled throughout the year, and as of the SADC hearing in May 2016).

The weddings are held in accordance with the terms of a "Facilities Rental Agreement" signed by representatives of the wedding party and Valley Crest. The agreement entitles the wedding party, upon payment of a rental fee to VCP, to have access to the main barn, the patio, the overlook room, the Barn Gallery, and the unfenced open areas of the farm property. When a wedding celebration occurs in the barn, a curtain separates the guests from the farm storage areas. Typical events involve the wedding party setting up a tent on the farm property and/or using the main barn for an indoor celebration, with Valley Crest providing tables and chairs. Celebrants are responsible for hiring a catering service and for the serving of alcoholic beverages. All dancing and music is in the main barn.

The rental fees for weddings increased over the years from

\$1800, to \$2100, and then to \$2800, per event. A Valley Crest witness testified that income from facility wedding rentals was listed as "Program service revenue" on line 9 of VCP's IRS Form 990. Total IRS Form 990 line 9 incomes were \$2,931 in 2011; \$18,873 in 2012; \$21,215 in 2013; and \$26,372 in 2014. The IRS Form 990 for 2015 had not been filed by VCP as of the SADC hearing in May 2016.

Valley Crest has used two forms of "Facilities Rental Agreement" for use of the farm property to celebrate weddings. The first version of the agreement, in use starting in 2014, contained the following provision:

6. To comply with NJ Right-to-Farm preserved farm [sic] restrictions, all licensees are required to purchase seasonal agricultural product from Valley Crest to be utilized in some capacity for the wedding as favors and/or to incorporate as part of the cuisine.

A VCP witness called the above paragraph 6 a "passive" purchase requirement because no amount of product was mandated. The second agreement format, which a VCP witness stated was initiated beginning in 2015 for 2016 weddings for the purpose of making the purchase provision clearer and more substantial as to product amounts, modified paragraph 6 as follows:

6. To comply with NJ Right-to-Farm preserved farm [sic] regulations, licensees are required to purchase a significant amount of agricultural produce from the farm. Thus[,] 70% of the total rental fee for an event will be used to purchase produce from the farm which can be used at the event, donated to the food bank, or any other way the licensee chooses.

Paragraph 6 of the revised version of the agreement employing the "70%" purchase provision was explained by a VCP witness as meaning that, based on a \$2800 facility rental fee, a wedding party is, in essence, purchasing \$2100 worth of farm products, with the remaining \$700 representing a "de minimis" fee for the facility rental. However, the payment portion of the 2015 agreements does not contain the breakdown described by the witness; instead, that portion of the agreement provides as follows:

Amount received:	\$500 hold-the-date deposit (received [date])
Amount owed:	\$2300 (remainder of rental fee) plus \$500 (refundable damage/cleaning deposit)
Total:	\$2800 to be paid by (date)

No other agreement provisions supported the witness's explanation of the \$2800 rental fee breakdown, and it was not possible to confirm independently, through other Valley Crest testimony or documents, how the "70%" purchase arrangement has been or would actually be effectuated. In sum, the "70%" purchase

provision, on its face, does not require that VCP farm products be used or consumed at a wedding.

Valley Crest's witnesses admitted that VCP possessed no records showing the quantities of VCP products purchased or ordered by the celebrants for each wedding covered by a signed "70%" or "passive" purchase agreement, and there was no documentary evidence and scant testimony presented that VCP products were actually used or consumed at wedding celebrations covered by either form of facility rental agreement. Instead, the testimony indicated that, on unspecified occasions, wedding parties subject to the facility rental purchase provision had the opportunity to, or did, purchase unquantified amounts of jars of preserves as a party gift or favor for attendees, bags of apples and peaches to place on the wedding reception tables, bales of hay to sit on, or to authorize the donation of agricultural products to food banks. While there was general testimony and a written report submitted by VCP showing amounts of agricultural products it donated to NORWESCAP and other charities from 2011 to 2015 in furtherance of one of Valley Crest's core missions, no testimony was offered and no other documentary evidence was presented linking specific donative figures to any particular wedding. In addition and significantly, farm products available in connection with either facility rental agreement were not necessarily grown or produced by Valley Crest.

VCP witnesses testified that farm products to be purchased under the rental agreements could come from another farm owned by Farm Land, LLC (Farm Land). Farm Land's managing member, who also sits on VCP's board of trustees, individually owns a 42-acre agricultural property immediately adjacent to the Valley Crest farm, and Farm Land is the owner of a 40-acre farm parcel next to its managing member's acreage. Farm Land provided commodities like cucumbers, preserves and bales of hay that were unavailable from the Valley Crest farm in connection with VCP wedding events.

In general, VCP witnesses' testimony could best be described as aspirational regarding what wedding parties may have done or are able to do with Valley Crest's agricultural products, rather than providing a clear explanation about what VCP products were actually used or consumed at an identified wedding. A Valley Crest witness could not explain how VCP would handle the rental agreements' purchase requirement when Valley Crest's farm products were not available due to wedding schedules and harvest seasons.

All weddings at the Valley Crest farm property are catered, and the VCP wedding planner maintains a list of what a witness called "preferred caterers" to which the celebrants are referred. Caterers are asked, but not required, to use VCP farm products, and there was no specific testimony in the record, and no documentary evidence

presented, as to how, and in what amount, Valley Crest products were actually used by the caterers at any of the meals served at any of the weddings, whether covered by the "passive" or "70%" purchase provision.

The paragraph 6 "passive" and "70%" versions differ in another significant way. The "passive" version provided that wedding parties were required to purchase seasonal agricultural products *from Valley Crest*; on the other hand, the "70%" agreement states that part of the rental fee will be "used to purchase produce *from the farm*". [Emphasis added]. The contiguity of the Farm Land, managing member's and Valley Crest properties, especially in the context of VCP witness testimony that Valley Crest products are not always available when weddings are scheduled, leads us to understand why the paragraph 6 purchase provision was changed from "product from Valley Crest" to "produce from the farm".

Based on what was presented by Valley Crest through testimony and documentary evidence, both the "passive" and "70%" agreements reasonably allow any or all of the following conclusions: (1) the wedding party is not necessarily involved in the actual purchase, use or consumption of agricultural products but instead authorizes part of its rental fee to be spent by Valley Crest, in VCP's discretion, to select available farm products for purchase and donating the goods to a food bank; (2) Valley Crest products may not necessarily be purchased *in toto*, as the paragraph 6 references were changed "from Valley Crest" in the prior agreement to "from the farm" in the "70%" format, most likely because of the seasonal or other unavailability of VCP products and the immediate proximity of the farms owned by Farm Land and by its managing member-VCP board member, respectively; (3) the "70%" provision did not preclude Valley Crest from using the wedding party's \$2100 fee to purchase products entirely from the Farm Land tract and/or the adjoining farm parcel owned by its managing member-VCP board member, and donating those products to a food bank.

In sum, since there is a legitimate question regarding the extent to which wedding parties actually select, utilize and/or consume agricultural products produced on the VCP farm property, as opposed to only agreeing to the "passive" or "70%" provision, Valley Crest could interpret the purchase clauses unilaterally, even if that interpretation resulted in no direct marketing of the farm's agricultural products at a wedding. Unfortunately, Valley Crest could not shed light on these questions; instead, VCP witnesses provided no information regarding how the purchase provision in either of the facility rental agreements was practically employed at an actual wedding.

VCP provided two (2) facility rental agreements dated in 2015, one with the "passive" purchase provision and one with the "70%"

purchase provision, for each of the seven (7) weddings scheduled in 2016 as of the SADC hearing. Some of the agreements were signed by the wedding party's representative and by VCP, and some were unsigned by both the representative and Valley Crest.² No explanation was given by VCP witnesses as to why there were two (2) sets of agreements for each wedding and why any particular agreement was signed or unsigned. The 2015 facility rental agreements for 2016 weddings reflect the following, with "Signed" indicating a fully-executed agreement and "Not signed" meaning the agreement was unsigned by both parties:

Agreement Date	Wedding Date	"Passive" purchase agreement	"70%" purchase agreement
01/31/15	06/25/16	Signed ³	Not signed
02/08/15	06/18/16	Signed	Not signed
04/21/15	05/21/16	Not signed	Signed
04/21/15	06/04/16	Not signed	Signed
05/26/15	10/01/16	Signed	Not signed
07/23/15	08/06/16	Signed	Not signed
09/14/15	10/15/16	Signed	Not signed

It is readily apparent from the above chart that a majority of the 2016 weddings did not employ the "70%" agreement.

Legal discussion

Statutory and regulatory recognition of on-farm direct marketing activities, as well as the SADC's previous RTFA rulings that addressed weddings at wineries on farms not preserved under ARDA, inform the analysis of the present case.

The Legislature attempted to provide RTFA protection to "special occasion events" at wineries only, and located on ARDA-preserved farms, by approving Senate Bill S-837 on March 27, 2014. The bill defined "special occasion event" as

a wedding, lifetime milestone event, or other cultural or social event as defined by the appropriate county agriculture development board, and conducted pursuant to the requirements set forth in [S-837]. . .

S-837 was conditionally vetoed by Governor Christie on May 12, 2014. The Governor's conditional veto message stated:

² The agreements were submitted at the request of SADC staff. Staff had Valley Crest redact the names of the wedding parties for privacy purposes.

³ This agreement contained a facility rental fee of \$2600, not the usual \$2800.

The Right to Farm program is designed to allow farmers to undertake traditional agricultural production free from unnecessary and overly burdensome governmental interference. This bill, however, would extend Right to Farm protections to events and activities with minimal or no relationship to the agricultural output of a farm, such as weddings, festivals, fairs, and other social events. By including these new agricultural tourism activities into the Right to Farm rubric, these undertakings would be exempt from local ordinances and regulations, as well as from public and private nuisance actions, even though such activities may have no relation to the farm's main agricultural business. As such, this extension of Right to Farm would reduce the farm itself to a mere backdrop for unrelated commercial activities.

In response to the Governor's conditional veto of S-837, the Legislature approved a revised version of the bill in June 2014 that removed RTFA protection for "special occasion events" and allowed, subject to conditions set forth in the legislation, weddings and other events solely at wineries located on ARDA-preserved farms. That legislation, which will be referred to in this report as "the preserved farm winery law", was signed by the Governor on July 2, 2014. P.L. 2014, c. 16.

Generally, the preserved farm winery law establishes a 44-month pilot program, under SADC auspices, permitting "special occasion events" on preserved farm wineries; delegates certain responsibilities to county agriculture development boards, including defining "special occasion events"; recognizes continued municipal planning and police power jurisdiction; contains a maximum income limit that can be earned by preserved farm wineries from "special occasion events"; allows for audits of the wineries under certain circumstances; imposes penalties on wineries for violating the law; and enables the SADC to promulgate appropriate regulations. The preserved farm winery law was established within ARDA (N.J.S.A. 4:1C-32.7, et seq.), not the RTFA, and the law expires in March 2018.

The SADC's efforts to promote agricultural tourism and enhance economic opportunities for commercial farms culminated in the adoption, effective April 7, 2014, of an agricultural management practice for on-farm direct marketing facilities, activities and events (OFDM-AMP). See, N.J.A.C. 2:76-2A.13, et seq. The rule clarified and built upon existing RTFA eligibility for protection of the operation of a farm market and of "agriculture-related educational and farm based recreational activities. . .related to marketing the agricultural output of the commercial farm." See, N.J.S.A. 4:1C-9c. and 9h., respectively. The rule was proposed on June 17, 2013 with a public comment period ending on August 16, 2013. 45 N.J.R. 1449(a); 46 N.J.R. 599(a).

The OFDM-AMP was promulgated in the context of the SADC's

hearing report and recommendations In the Matter of Hopewell Valley Vineyards, Hopewell Township, Mercer County, SADC ID #786 (approved by the SADC on March 24, 2011) (HVV), and the ongoing RTFA litigation that resulted in the agency's final decision in Lawrence Ziemba v. Cape May County Agriculture Development Board and Natali Vineyards, LLC, OAL Dkt. No. ADC 12000-13, SADC ID #1354 (approved July 24, 2014) (Natali).

The hearing report and recommendations in HVV concluded that celebratory life events such as weddings and birthday parties

are *services*, not the agricultural output or the methods by which such output is produced that the Legislature sought to protect under the current version of the RTFA. Included within this "service" category is catering or catered events in which food is brought to the winery by a third party to serve larger-group assemblies or events like the vintner's dinner. While the [Hopewell Valley Vineyards] winery is an aesthetically pleasing venue, the special events described above and hosted there are not subordinate and accessory to consumption of the commercial farm's agricultural output. Put simply, attendees are present for the event itself, not for the wine. [Hearing report, pp. 22-23; emphasis in original].

The SADC's Final Decision in Natali reiterated the holding in the HVV case:

Accordingly, we disagree with the concept that any activity or event attracting customers to a farm winery is entitled to RTFA protection. The SADC previously held [in the Hopewell Valley Vineyards report] that "not every marketing tool employed to get customers to a winery is recognized in the RTFA. [Final Decision at p.21; emphasis in original].

Consistent with the policies expressed in HVV and Natali, the OFDM-AMP draws a balance between a non-winery, commercial farm's agricultural production and the marketing of its products through on-farm facilities, activities and events. A critical part of the regulation is the definition section, N.J.A.C. 2:76-2A.13(b), in which the variously-described marketing efforts are eligible for RTFA protection provided they are accessory to agricultural production. The OFDM-AMP defines "on-farm direct marketing event" as

an agriculture-related function offered by a commercial farm that is accessory to, and serves to increase, the direct-market sales of the agricultural output of the commercial farm. Such events are designed to attract customers to a commercial farm by enhancing the experience of purchasing agricultural products; may include on-farm direct marketing activities as components; are either product-based or farm-based; and occur seasonally or periodically. Product-based events, provided they demonstrate the required relationship to marketing the output of the commercial farm, may include, but are not limited to: an apple, peach,

strawberry, pumpkin, wine, or other agricultural or horticultural product festival held at a commercial farm that produces that particular product. Farm-based events[,] provided they demonstrate the required relationship to marketing the output of the commercial farm, may include, but are not limited to: seasonal harvest festivals held at a commercial farm that produces such seasonal farm products, farm open house events, CSA membership meetings, and farm-to-table events that showcase the agricultural output of the commercial farm.

An issue raised by several commenters was whether celebratory life events, such as weddings, graduations, birthdays and anniversaries, often in the context of wineries, were eligible for RTFA protection and whether they should be included in the OFDM-AMP as examples of an "on-farm direct marketing event". In response, the SADC explained, at 46 N.J.R. 600:

Most "celebratory" events would not meet the definition of on-farm direct marketing events at N.J.A.C. 2:76-2A.13(b) in the AMP, and the SADC previously ruled that not every marketing tool employed to attract customers to a winery, including a "celebratory" event, is protected by the RTFA. (*In the Matter of Hopewell Valley Vineyards, Hopewell Township, Mercer County*, SADC ID No. 786 (Hearing Officer's Findings and Recommendations of the State Agriculture Development Committee, March 24, 2011, pages 21-23). While it is conceivable that an event such as a wedding could be protected as a type of retail marketing provided that an overwhelming majority of the food and beverages served were produced from the output of the farm, the SADC believes that protecting such uses would require promulgation of a separate AMP to address the conditions under which RTF protection could be available.

The SADC recognizes the evolving nature of the agricultural industry, including the wine industry and winery operations, and will look at these activities more closely in the future, as the need arises. N.J.S.A. 4:1C-9.j gives the SADC the ability to add additional agricultural activities to the list of activities eligible for RTFA protection, and the SADC has the ability to develop additional AMPs for other activities. If an activity or event does not fit within the authority granted the SADC in N.J.S.A. 4:1C-9.j, a legislative change would be required to include the activity or event within the scope of the RTFA. [Underline added].

In its October 8, 2015 resolution, the HCADB agreed with Valley Crest's argument that it had shown a "sufficient nexus" between the agricultural products grown on the farm property and the use of those products at VCP weddings. Without explaining how the OFDM-AMP incorporates "nexus" as a legal standard or delineating a nexus test upon which a finding of "sufficient" could be based, the board concluded that the farm complied with the OFDM-AMP and that the weddings were entitled to RTFA protection. The facts and law previously set forth in this hearing report are clearly inconsistent with the line of reasoning adopted by the board.

Currently, only the preserved farm winery law provides statutory authority permitting the holding of weddings on a farm as a commercial marketing endeavor. Among the various conditions accompanying that permission are that the farm be ARDA-preserved, that it contain a winery, and that the privilege granted in the statute is limited to a 44-month pilot period. The law was enacted after the Governor's conditional veto message unambiguously stated that such events are not entitled to RTFA protection.

Further, VCC cannot rely on the OFDM-AMP as separate authority to grant RTFA protection for the conduct of weddings on the Valley Crest farm property. The SADC's response to public comments upon promulgation of the OFDM-AMP stated that weddings do not meet the definition of "on-farm direct marketing events" and, therefore, are not eligible for RTFA protection, a position consistent with the HVV hearing report and, immediately after publication of the rule, the Governor's veto message and the Natali final decision.

Even assuming that "overwhelming majority" is a measurable RTFA standard for farm-grown food and beverages served at a wedding, VCP's proofs discussed at pp. 5-8, *supra*, were wholly inadequate and otherwise questionable. This report finds that the quantum of proof presented by Valley Crest regarding the use or consumption of its on-farm products at weddings cannot, by any objective measure, rise to the level of "overwhelming", and any nexus between the farm's agricultural production and the weddings was, at most, tangential.

Conclusion

This report concludes that, based on the hearing record: (1) weddings conducted by VCP are not protected activities under the RTFA at this time; and (2) the weddings held at the Valley Crest farm property do not fall within the ambit of the OFDM-AMP. Based on those two (2) findings, the report will not address the third issue raised on appeal set forth on page 2.

As noted in prior RTFA decisions in which a finding has been made that a particular activity is not eligible for RTFA protection, Valley Crest is not precluded from holding weddings at the VCP farm property provided it complies with applicable federal, state, county and municipal laws, regulations and ordinances. In addition, the conduct of weddings on the Valley Crest farm property is not shielded by the irrebuttable presumption that those activities do not constitute a public or private nuisance.

The conclusions reached in this report are drawn in light of the current statutory and regulatory framework. The question of whether and to what extent weddings can, in the future, be protected activities under the RTFA on non-winery farms, either unpreserved or

preserved outside of the ARDA program, will need to be resolved through applicable statutory and/or regulatory processes.

Dated: January 26, 2017

Brian D. Smith

Brian D. Smith, Esq.
Chief of Legal Affairs
Hearing Officer

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