

RESOLUTION OF DETERMINATION BY THE SOMERSET COUNTY
AGRICULTURE DEVELOPMENT BOARD
IN THE MATTER OF THE
CIUFO RIGHT-TO-FARM CASE
BLOCK 80 – LOT 10.02
TOWNSHIP OF BRANCHBURG

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1, et seq., and the State Agriculture Development Committee's (SADC) regulations, N.J.A.C. 2:76-2.3, a commercial farm owner or operator may make a request to the County Agriculture Development Board (hereinafter "Board") to determine if his or her operation constitutes a generally accepted agricultural management practice; and

WHEREAS, on October 19, 2010, a written request with supporting documentation was submitted by Thomas Leach, Zoning Officer for the Township of Branchburg, for determination of a generally accepted Agricultural Management Practice on the Ciufu Farm (Block 80 – Lot 10.02), located at _____, and

WHEREAS, the Township of Branchburg provided proof of numerous complaints from neighboring properties regarding the storing of commercial vehicles, and documentation showing that the storing of commercial vehicles on this property, located in an R-3 Zone, is in violation of the Township of Branchburg's Zoning Code; and

WHEREAS, the Township of Branchburg has cited the tenant of the property (Frank Ciufu) for storing commercial vehicles on the farm in connection to his landscaping business, known as "Simple Cuts"; and

WHEREAS, Anthony Ciufu (owner) submitted an Application for Interpretation and D-Variances for the landscaping business to the Township of Branchburg, but withdrew both applications prior to the interpretation being made; and

WHEREAS, Thomas Leach, Zoning Officer for the Township of Branchburg, notified the property owner that the commercial vehicles needed to be removed because of the violation to the Township Zoning Code; and

WHEREAS, when it was apparent that the commercial vehicles were not moved, Thomas Leach summoned the property owners; and

WHEREAS, after the summons was issued and contested by Mr. Ciufu, a Judge Kehlller (Branchburg Township Judge) determined that this matter is a Right-to-Farm issue, and should be brought to the Somerset County Agriculture Development Board (CADB) for review and interpretation; and

WHEREAS, this matter was placed on the CADB's agenda for November 8, 2010, and all involved parties were notified by the CADB on October 25, 2010; and

WHEREAS, on November 5, 2010, a submission was received from Christopher Stevenson, attorney for Anthony Ciufu, which states that much of the information submitted by the Township's Zoning Officer, Thomas Leach, was incorrect and that the property owner had not received proper notification of the Township of Branchburg's decisions in this matter in the past; and

WHEREAS, Christopher Stevenson further requested that the Ciufu Right-to-Farm matter be tabled from the CADB's November 8, 2010 meeting or that the CADB agree to hear no testimony, due to the fact that the property owner, nor his legal counsel, would be able to attend; and

WHEREAS, the CADB agreed to the request of hearing no testimony at the November 8, 2010 meeting, with the approval of the Township of Branchburg as the complainant, but the item remained on the agenda to conform to timelines prescribed for hearing Right-to-Farm matters in the Right-to-Farm Act; and

WHEREAS, the Right-to-Farm subcommittee of the CADB met on November 22, 2010 and arrived at a consensus that even though the Ciufu property qualifies as a commercial farm and is eligible for Right-to-Farm protection, the parking and/or storage of the commercial vehicles in question, which are mainly used for the landscaping business, is not a protected use under the Right-to-Farm Act; and

WHEREAS, the Right-to-Farm subcommittee of the CADB presented their opinion to the full CADB at their December 13, 2010 meeting; and

WHEREAS, Christopher Stevenson, attorney for Anthony Ciufu, attended the CADB's December 13, 2010 meeting and offered arguments in support of his client's position, and also requested that he be allowed to submit further information regarding the commercial vehicles and how they are used in conjunction with the agricultural part of the operation, which is a horticultural farm; and

WHEREAS, the CADB allowed for the supplemental information, which was received by the Office of the CADB on February 10, 2011 and contained a narrative explaining how the landscaping business came to be and how it is connected to the horticultural operation, an inventory of what is being grown as part of the horticultural operation (valued at \$23,275 at the end of the year 2010) and an explanation as to why the commercial vehicles are so vital to the horticultural operation; and

WHEREAS, the above-referenced supplemental information reviewed by the Right-to-Farm committee on February 14, 2011, with its opinion being that more information regarding the specific use of the commercial vehicles was needed to make a final determination in this matter ; and

WHEREAS, the CADB concurred with the opinion of the Right-to-Farm committee, and requested that Anthony Ciufu provide information which was to include photographs of all the vehicles, how they are used, how much of the time each is used for landscaping versus the horticultural operation, information regarding the registration and licensing of each vehicle, and where and why the vehicles are stored on the property; and

WHEREAS, the above-referenced supplemental information was received by the Office of the CADB on February 23, 2011 and was forwarded to the Right-to-Farm committee for review at its meeting, scheduled for March 14, 2011; and

WHEREAS, the consensus of the Right-to-Farm committee was that the requested information on the usage of the commercial vehicles

clearly showed that the vehicles are all, with the exception of one truck, registered and licensed commercial, and are defined by Anthony Ciufo, in submitted documentation, to be used 73.2% of the time for the landscaping business; and

WHEREAS, the opinion of the Right-to-Farm committee was then referred to the full CADB for its determination, to which the CADB fully concurred and passed a motion determining that the primary use of the commercial vehicles on the Ciufo Farm is for the landscaping business, "Simple Cuts", and therefore the jurisdiction in this matter is under the Township of Branchburg, and not the Somerset CADB, as this is not a Right-to-Farm matter, nor does it constitute an activity that is protected by the Right-to-Farm Act; and

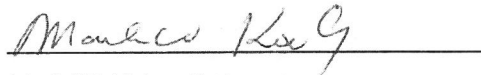
WHEREAS, Somerset CADB staff and members sought the assistance of Rutgers Cooperative Extension and the Somerset-Union Soil Conservation District, as well as Deputy County Counsel in the determination of this matter; and

NOW THEREFORE, BE IT RESOLVED, that the Board hereby determines that the storing of commercial vehicles on the Ciufo Farm does not constitute an activity that is protected by the Right-to-Farm Act (N.J.S.A. 4:1C-1, et seq.) because the commercial vehicles are primarily used for the landscaping business onsite, "Simple Cuts".

BE IT FURTHER RESOLVED, that the Board hereby forwards this matter to the attention of the State Agriculture Development Committee (SADC) for their review and determination on March 17, 2011, by request of the landowner and his legal counsel, and copied all interested parties.

BE IT FURTHER RESOLVED, that the Somerset CADB shall forward a copy of this resolution to Christopher Stevenson (attorney for Anthony Ciufo), the Township of Branchburg, the SADC, and any other individuals or organizations deemed appropriate by the Board within 30 days of this recommendation.

I hereby certify that the above is a true copy of the resolution adopted by Somerset County Agriculture Development Board at their meeting of March 22, 2011.



Mark W. Kirby, Chairman
Somerset County Agriculture Development Board