Resolution No. 2021-4-2

RESOLUTION OF THE MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD IN THE MATTER OF THE RIGHT-TO-FARM COMPLAINT FOR ACTIVITIES ON BLOCK 18.01, LOT 32, HOLMDEL

Mr. Holmes offered the following resolution and moved its adoption:

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1, et seq., and State Agriculture Development Committee (SADC) regulations, N.J.A.C. 2:76-10(a), any person aggrieved by the operation of a commercial farm shall file a complaint with a County Agriculture Development Board (CADB) or with the SADC in counties where no CADB exists; and

WHEREAS, on January 11, 2021, a complaint ("Complaint") with supporting documentation was submitted in writing to the Monmouth County Agriculture Development Board (MCADB) by Holmdel Township's Code Enforcement/Zoning Officer, Loni Lucina of 4 Crawford's Corner Road, Holmdel, NJ 07733 to property known and designated as Block 18.01, Lot 32: commonly known as 870 Holmdel Road in the Township of Holmdel (the "Property"), allege the construction of an unpermitted fence that violates height restrictions; and

WHEREAS, in response to receiving the above complaint, a certified letter dated January 15, 2021 was sent return receipt by the MCADB to Amy Novak, owner of the Property at 870 Holmdel Road, Holmdel, informing her of the complaint; advising that the MCADB was required to contact the commercial farm owner and request that it provide evidence that the property upon which disputed activities are being conducted is a "commercial farm" as defined in N.J.S.A 4:1C-3; advising of the Right to Farm process that would commence: and provided the fencing installation AMP for wildlife control and a commercial farm determination questionnaire to complete with instructions to return the requested information by February 5, 2021; and

WHEREAS, as of February 23, 2021, the MCADB had not received any written documentation from either Amy Novak (Owner) or James Kyriakakos (Operator) in connection with this complaint; and

WHEREAS, this matter was placed on the MCADB's March 2, 2021 meeting agenda, to make a Determination regarding the Complaint against the alleged activities taking place on the Property; and

WHEREAS, Amy Novak, the landowner, and James Kyriakakos, the Property manager, testified at the March 2, 2021 hearing that they were not aware of the submission deadline and requested until March 10th to file their response; and

WHEREAS, the MCADB members agreed to grant the extension; and

WHEREAS, on or about March 10, 2021, the Respondent submitted a Notarized Commercial Farm Certification Form but did not offer any supporting documentation as part of the submission; and

WHEREAS, as of March 19, 2021, the Respondent still had not filed sufficient documentation for the MCADB to proceed with a Commercial Farm hearing; and

WHEREAS, on March 19, 2021 Christopher Beekman of The Beekman Law Firm, LLC sent Ms. Novak and Mr. Kyriakakos a letter advising that the matter would be dismissed at the April 6, 2021 MCADB meeting and no testimony would be taken at the meeting.

NOW THEREFORE BE IT RESOLVED, that the MCADB hereby determines that the owner and operator of the Property did not submit sufficient evidence to support the claim that the Property meets the criteria to be considered a "commercial farm" eligible for Right to Farm protection; and

BE IT FURTHER RESOLVED that, based on the foregoing, the Property cannot be determined a "commercial farm" as defined by the Right to Farm Act and is not currently eligible for Right to Farm Protection; and

BE IT FURTHER RESOLVED that, because the MCADB does not have enough information before it to qualify the Property as a "commercial farm", the MCADB has no jurisdiction over the Complaint, and this matter is hereby dismissed without prejudice and the disputed activities alleged in the Complaint remain under the jurisdiction of all other appropriate local, state and/or federal authorities; and

BE IT FURTHER RESOLVED that, the MCADB shall forward a copy of the resolution to the complainant, Amy Novak, James Kyriakakos, the Holmdel Township Planning Board, the Holmdel Township Municipal Court, the SADC, and any other individual deemed appropriate by the Board; and

BE IT FURTHER RESOLVED that any person aggrieved by this resolution may appeal to the SADC 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 10 days from the receipt of this resolution. The decision of the SADC shall be considered a final administrative agency decision. If this resolution is not appealed within 10 days, this resolution is binding.

Seconded by Ms. Butch and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Mr. Buscaglia	X			
Ms. Butch	X			
Mr. DeFelice	X			
Mr. Holmes	X			
Mr. Matthews	X			
Mr. Potter	X			

I do hereby certify that the foregoing is a true copy of a resolution adopted and memorialized by the Monmouth County Agriculture Development Board at a meeting on the 6th of April, 2021.

Gary DeFelice, Secretary