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#68

Somerset County Agriculture Development Board

Application for a Site Specific
Agriculture Management Practice

Castle Lock Farm
Block 168 – Lot 12.02
36 Wertsville Road, Hillsborough Township

WHEREAS, Steve Zamek as owner of Castle Lock Farm (hereinafter "Mr. Zamek") is the current record owner of Block 168, Lot 12.02 located in Hillsborough Township, County of Somerset (hereinafter the "Premises"); and

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1 et. seq. and regulations promulgated by the State Agriculture Development Committee (hereinafter "SADC"), a commercial farm owner or operator may make a request to the Somerset County Agriculture Development Board (hereinafter "SCADB") seeking a determination for the creation and recognition of a Site Specific Agriculture Management Practice (hereinafter "SSAMP"); and

WHEREAS, on December 2, 2013, Mr. Zamek on behalf of Castle Lock Farm filed a written request with the SCADB for the creation and recognition of a SSAMP in connection with the proposed use of a mobile home on the Premises for purposes of housing agricultural labor (hereinafter the "Castle Lock Farm SSAMP Application"); and

WHEREAS, by way of the Castle Lock Farm SSAMP Application, Mr. Zamek recognizes that Hillsborough Township's Zoning Ordinance (Chapter 188-99.4 - Mountain Zone District Standards) does not allow the placement of a mobile home on the Premises to serve as housing for agricultural labor; and

WHEREAS, by way of the Castle Lock Farm SSAMP Application, Mr. Zamek seeks relief from this local zoning ordinance proscription against placement of a mobile home on the Premises to serve as housing for agricultural labor; and

WHEREAS, at its December 9, 2013 meeting, SCADB members, staff, and legal counsel discussed the threshold legal eligibility requirements that must be satisfied under the Right to Farm Act in order for the SCADB to exercise jurisdiction over the Castle Lock Farm SSAMP Application;

NOW, THEREFORE, BE IT RESOLVED, that the SCADB makes the following observations:

(1) The Right to Farm Act was adopted to protect commercial farms against nuisance lawsuits and against local regulation that have the intent or effect of driving out farms in favor of other forms of land use. Twp. of Franklin v. den Hollander, 338 N.J. Super. 373, 383 (App. Div. 2001), aff'd, 172 N.J. 147 (2002).

(2) To that end, the Right to Farm Act protects certain farming uses and activities against local regulation provided that a county agriculture development board and/or the SADC determines that the proposed uses or activities are executed in a manner consistent with generally accepted agricultural management practices and the other criteria of the Right to Farm Act. N.J.S.A. 4:1C-9(a) through (i).

(3) Under the Right to Farm Act, in order to receive protection against local regulation, an agricultural practice must fall within one of the specifically enumerated categories under N.J.S.A. 4:1C-9(a) to (h), or be included in SADC regulations under N.J.S.A. 4:1C-9(i).

(4) As previously determined by the SADC, and affirmed by the Superior Court of New Jersey, Appellate Division, agricultural labor housing is not included in the specifically enumerated protected activities listed in subsections (a) to (h), nor is agricultural labor housing identified as a protected use or activity in SADC regulations under subsection (i). In the Matter of Wilkin and Urbano, 2006 WL3018047 (N.J. Super. AD).

(5) As previously recognized by the SADC, and affirmed by the Superior Court of New Jersey, Appellate Division, the New Jersey Legislature did not intend to extend Right to Farm Act protection to agricultural labor housing. Id..

BE IT FURTHER RESOLVED, that the SCADB therefore determines it has no jurisdiction to entertain and act upon the Castle Lock Farm SSAMP Application given that the relief sought by way of this SSAMP application fails to satisfy the threshold legal eligibility requirements under the Right to Farm Act; and

BE IT FURTHER RESOLVED, that the SCADB shall forward a copy of this Resolution to Mr. Zamek, the Township of Hillsborough, the SADC, and any other individuals or organizations deemed appropriate by the SCADB within 30 days of the execution of this Resolution.

I, Mark W. Kirby, Chairman of the Somerset County Agriculture Development Board, hereby certify that the foregoing is a true copy of a resolution adopted by said Board at their regularly convened meeting of January 13, 2014.

Mark W. Kirby, Chairman — Jan 13 2014 Date