

**TWELFTH ANNUAL REPORT OF THE
ATTORNEY GENERAL TO THE GENERAL ASSEMBLY
PURSUANT TO SECTION 318 OF ACT 38 OF 2005
“ACRE”
AGRICULTURE, COMMUNITIES AND RURAL ENVIRONMENT**

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The Commonwealth is home to approximately 58,200 farms, covering 7,630,000 acres, with an average farm size of 131 acres, across Pennsylvania's 2561 distinct municipalities (townships, cities, boroughs).¹ On a yearly basis, Pennsylvania agriculture generates a total of \$7.5 billion in cash receipts with international sales of agricultural, food and wood products accounting for \$3.2 billion of that amount. The overall economic impact of agriculture in the Commonwealth is \$75 billion a year.² Additionally, 1 in 7 jobs in Pennsylvania is in some way related to agriculture.³

Promoting agriculture is an important state policy. The Right to Farm Act ("RTFA") states: "[i]t is the declared policy of the Commonwealth to conserve and protect and encourage the development and improvement of its agricultural land for the production of food and other agricultural products [and] [i]t is the purpose of this act to reduce [loss of] agricultural resources by limiting the circumstances under which agricultural operations may be the subject matter of...ordinances." 3 P.S. § 951. The Municipalities Planning Code ("MPC") requires that zoning ordinances "shall encourage the continuity, development and viability of agriculture operations," 53 P.S. § 10603(h). The MPC exists "to accomplish coordinated development," "promote the preservation of...prime agricultural land," and ensure that zoning ordinances "facilitate the present and future economic viability of existing agricultural operations in this Commonwealth and do not prevent or impede the owner or operator's need to change or expand their operations in the future in order to remain viable..." 53 P.S. § 10105.

When one mixes together billions of dollars, millions of acres, tens of thousands of farms, and several thousand municipalities it is inevitable that disagreements, misunderstandings, and

¹ USDA, National Agricultural Statistics Services; Pennsylvania Department of Community and Economic Development.

² Figures are taken from the latest Pennsylvania Department of Agriculture statistics from 2012-2013 which are based on the latest U.S. Agricultural Census of 2012.

³ *Ibid.*

friction will occur. The Agriculture, Communities and Rural Environment (“ACRE”) statute helps balance the dynamic nature of Commonwealth agricultural operations, while at the same time furthering the Legislature’s explicit goal of promoting agriculture.

ACRE, also referred to as Act 38, took effect on July 6, 2005. The General Assembly’s Historical and Statutory Notes to ACRE, consistent with the policies articulated in the RTFA and the MPC, affirm that a strong agricultural community is vital to the Commonwealth. The ACRE Notes declare the Commonwealth has a “vested and sincere interest in ensuring the long-term sustainability of agriculture and normal agricultural operations” and “[i]n furtherance of this goal...has enacted statutes to protect and preserve agricultural operations for the production of food and agricultural products.”

The central purpose of ACRE is to protect normal agricultural operations from unauthorized local regulation. If a local ordinance exceeds, conflicts with, or duplicates state law that ordinance is considered “unauthorized” under ACRE and it cannot stand. ACRE confers upon the Office of Attorney General (“OAG”): (1) the power and duty, upon the request of an owner or operator of a normal agricultural operation, to review local ordinances for compliance with State law; and (2) the authority, in the Attorney General’s discretion, to bring a legal action against a local government unit in Commonwealth Court to invalidate or enjoin the enforcement of an unauthorized local ordinance.

The OAG has a process for receiving requests for review of ordinances and for bringing legal action when warranted. All requests for review received during the year ending in July of 2017 either were completed within 120 days or required an extension of the 120-day period when essential additional information was needed in order to conduct a thorough ACRE review.

When the OAG receives a request for review of an ordinance, the OAG sends the owner/operator requesting the review an acknowledgement that it was received. The municipality whose ordinance is the subject of the request for review also receives a notice of the request, indicating that the ordinance will be reviewed.

After completing its review, the OAG advises both the owner/operator and the municipality, in writing, whether it intends to bring legal action to invalidate or enjoin enforcement of the ordinance. If the OAG does not bring a legal action, the Office ensures that the farmer is aware of his options moving forward. The OAG informs the farmer that he has a private right of action under the ACRE statute if he so chooses. The OAG also directs the farmer to other government resources that may be of assistance (*e.g.* the State Conservation Commission, Conservation Districts, Pennsylvania State University Extension).

Upon advising the municipality that it intends to bring legal action, the OAG affords municipal officers an opportunity to discuss the legal problems identified in the review and to correct such problems before the action commences. It is the OAG's intent to resolve disputes with municipalities through a cooperative and interactive process short of litigation; however, if the dispute cannot be resolved via this non-confrontational approach the OAG will file suit in the Commonwealth Court.

Since the last Annual Report, the OAG has greatly enhanced the access to and transparency of the ACRE program. The OAG has added to the first page of its public website an ACRE tab directing the user to the OAG's ACRE resource center.⁴ The resource center has a brief description of the ACRE law, a link to an ACRE brochure, and a list of the ACRE cases that the OAG has received in calendar year 2017. The list includes redacted copies of the ACRE complaint, redacted

⁴ Go to www.attorneygeneral.gov to view the "Acre Reference" tab at the lower right hand side of the page.

copies of the municipalities' responses, copies of the ordinance(s) in question, and the status of the OAG's review. The resource center informs the user that he/she may send an ACRE complaint through the regular mail to the OAG's Office in Harrisburg at the listed address or simply use the email link to transmit the complaint to the OAG via electronic mail.

The OAG is committed to educating the public about the ACRE program. In addition to the website, the OAG has implemented a public outreach program where the OAG's ACRE attorney has been and will continue to give ACRE presentations throughout the Commonwealth to people and organizations involved in Pennsylvania agriculture.

I. ANNUAL DATA

Between July 6, 2016, and July 6, 2017, the OAG:

- Received 16 requests for review of local ordinances;
- Completed review of 12 ordinances;
- Sent 8 responses to the owner/operator advising that no legal action would be filed;
- Sent 4 notices to municipalities of legal problems with ordinances;

II. AGGREGATE DATA

Between July 6, 2005, and July 6, 2017, the OAG:

- Received 147 requests for review of local ordinances;
- Completed review of 125 ordinances;
- Sent 67 responses to owner/operators advising that no legal action would be filed
- Sent 58 notices to municipalities of legal problems with ordinances;
- Brought 7 legal actions against municipalities to invalidate or enjoin the enforcement of an unauthorized local ordinance;
- Resolved 48 out of the 58 reviews that were accepted due to legal problems with ordinances;

- Re-opened a prior accepted review that had been resolved through ordinance amendments because the Township subsequently enacted new ordinance amendments creating legal problems.
- Received 4 requests for reconsideration from OAG's denial of a request for review.

Since 2005, the OAG has accepted 58 of the 125 cases in which the ordinance review was finalized. "Accepted" cases are those in which the OAG determines there are legal problems with the local ordinances. This represents an almost 50% acceptance rate of cases since the ACRE law passed.

Of the accepted cases, 48 or approximately 83%, have been successfully resolved/settled to the satisfaction of the Township, the owners/operators, and the OAG without resorting to litigation. In short, the ACRE program has furthered the Commonwealth's declared policy of supporting agriculture while at the same time saving the Commonwealth, local governments, and individual farmers millions of dollars by working together to avoid litigation when appropriate.

III. REQUESTS FOR REVIEW, NATURE OF COMPLAINTS AND ACTION TAKEN

A. Status of Current Legal Actions

1. Locust Township, Columbia County

The owner/operator requested review of Ordinance No. 4-2001, which regulates “intensive animal agriculture.” The OAG accepted the case and offered the Township an opportunity to discuss and correct the ordinance. The Township declined this offer and the OAG filed a lawsuit in Commonwealth Court to invalidate and enjoin the ordinance’s enforcement. The Commonwealth Court ruled against the OAG, but on appeal the Pennsylvania Supreme Court held that the Attorney General is explicitly empowered to bring action to invalidate enacted local ordinances without regard to enforcement. The case was remanded to the Commonwealth Court. The OAG filed a Motion for Summary Judgment and the Commonwealth Court issued an en banc decision granting in part and denying in part the OAG’s summary judgment. The Court held that the Township cannot require smaller animal operations to comply with the Nutrient and Odor Management Act (“NOMA”) because the Act makes compliance for these operations a voluntary option. The Court held the NOMA preempted setback requirements that exceeded those under the Act; the setbacks also exceeded the Township’s authority under the MPC. The Court held that the requirements for a water impact study, water usage monitoring and recording were preempted by the Water Resources Planning Act. Finally, the Court held that a requirement for a site plan for a proposed operation was not preempted by the Nutrient Management Act. This case remains open and the OAG continues to litigate the undecided issues.

B. Pending Legal Actions

1. Maxatawny Township, Berks County

The owner/operator of a poultry operation requested review of the Township’s ordinances regulating agricultural operations and the requirement of a conditional use approval to engage in “intensive agriculture.” The OAG accepted the case and outlined for the Township the legal deficiencies in the ordinances. The Township has declined the OAG’s offer to engage in negotiations; therefore, the OAG will be filing a lawsuit in the Commonwealth Court in the near future.

2. Montour Township, Columbia County

The owner/operator requested review of ordinances requiring a special exception for a proposed swine operation which is neither a Concentrated Animal Operation (CAO) nor a Concentrated Animal Feeding Operation (CAFO) located in an agricultural zoning district and on a property included in the Township’s Agricultural Security Area. The owner/operator also requested review of the Township’s imposition of conditions for the special exception, including well testing at the owner’s expense, annual reports to prove the Animal Equivalent Units (AEUs) on the operation remain below 2 AEUs, and setback and odor control requirements. The OAG accepted the case. The Township proposed amendments which are deficient and if negotiations prove fruitless suit will be filed.

C. Complete Legal Actions

1. Lower Oxford Township, Chester County

The owner/operator requested review of Ordinance No. 2004-1, which regulates composting activities. The owner/operator complained that the ordinance unlawfully restricts mushroom compost preparation. The OAG accepted the case and offered the Township an

opportunity to discuss and correct the ordinance. The Township declined this offer and the OAG filed a lawsuit in Commonwealth Court to invalidate and enjoin the enforcement of the ordinance just as it had in the Locust Township case. The Commonwealth Court once again ruled against the OAG and the Office appealed that decision to the Pennsylvania Supreme Court. The Supreme Court issued a per curiam order affirming the Commonwealth Court's ruling, and the OAG filed a Petition for Reargument, which the Court ordered held pending the outcome of *Locust Township*. The Supreme Court granted the petition and vacated its per curiam order based on its reversal of the Commonwealth Court's decision in *Locust Township*. Following negotiations, Lower Oxford Township enacted ordinance amendments to resolve the legal problems with the ordinance and the OAG withdrew the lawsuit.

2. Heidelberg Township, North Heidelberg Township, Robesonia Borough, Womelsdorf Borough, Berks County

The owner/operator requested review of the Joint Municipal Ordinance, which regulates "intensive raising of livestock or poultry" in four municipalities. The OAG accepted the case and offered the Townships an opportunity to discuss and correct the ordinance. The Townships declined this offer and the OAG filed a lawsuit in Commonwealth Court to invalidate and enjoin the ordinance's enforcement. The same litigation that occurred in the Locust and Lower Oxford Townships cases occurred here: the Commonwealth Court ruled against the OAG, the OAG appealed, and the Supreme Court ultimately ruled consistent with its *Locust Township* opinion.

Following negotiations, the four municipalities enacted joint ordinance amendments to resolve the legal problems with the ordinance and the OAG withdrew the lawsuit in September 2016.

3. Richmond Township, Berks County

The owner/operator requested review of Ordinance No. 81-2000, which regulates “intensive agricultural activity.” The OAG accepted the case and offered the Townships an opportunity to discuss and correct the problems with the ordinance. The Townships declined this offer and the OAG filed a lawsuit in Commonwealth Court. The Court denied the Township’s Motion for Judgment on the Pleadings but did grant in its entirety the OAG’s Motion for Summary Judgment. Following the Commonwealth Court’s grant of summary judgment, the OAG negotiated with Richmond Township on amendments to the ordinance to resolve the legal problems. The OAG approved Richmond Township’s proposed ordinance amendments and Richmond Township enacted those amendments.

4. East Brunswick Township, Schuylkill County

The owner/operator requested review of Ordinance No. 1 of 2006, which generally regulated land application of biosolids and specifically prohibited land application of biosolids by corporations. The OAG accepted the case and offered the Township an opportunity to discuss and correct the problems with the ordinance. The Township declined this offer and the OAG filed a lawsuit in Commonwealth Court. The parties filed various cross motions.

During the pendency of the litigation, the OAG negotiated with the Township on amendments to the Ordinance to resolve the legal problems. The Township enacted the amendments and the OAG withdrew the lawsuit. These amendments are being utilized throughout the Commonwealth as a model biosolids ordinance.

5. Peach Bottom Township, York County

The owner/operator requested review of an existing ordinance regulating CAOs and CAFOs, a proposed amendment to the existing CAO/CAFO ordinance, and an ordinance regulating below

ground manure storage facilities. The OAG accepted the case and offered the Township an opportunity to discuss and correct the problems with the ordinance. The Township declined this offer and the OAG filed a lawsuit in Commonwealth Court.

During the pendency of the litigation, several years of extensive negotiations resulted in Peach Bottom Township enacting amendments to bring the ordinance in compliance with state law. The OAG withdrew the lawsuit.

6. Packer Township, Carbon County

The owner/operator requested review of the Packer Township Local Control, Sewage Sludge and Chemical Trespass Ordinance, which generally regulated biosolid land application and specifically prohibited biosolid land application by corporations. The OAG accepted the case and offered the Township an opportunity to discuss and correct the problems with the ordinance. The Townships declined this offer and the OAG filed a lawsuit in Commonwealth Court.

The Court denied both parties' pretrial motions and scheduled a trial date. Prior to trial, Packer Township repealed the ordinance. The Court held that the lawsuit was moot and dismissed the case for want of jurisdiction.

D. Matters Unresolved as of 2017 Report

The following is a list of cases included in the 2016 report that remain unresolved:

1. Fayette County

The owner/operator requested review of the application of a County sign ordinance to require the removal of truck trailers used for hay storage from the farm property. Upon request, the owner/operator and County submitted additional information to the OAG and the ordinance review is coming to a conclusion.

2. Heidelberg Township, Lebanon County

OAG received requests from two separate owners/operators requesting review of the Township ordinance provisions regulating CAOs. The OAG notified the Township of legal problems with the ordinance and offered the Township an opportunity to discuss and correct them. The Township is working with the OAG to resolve this matter. Heidelberg has sent the OAG an extensive packet of proposed amendments to its ordinances and the OAG is in the process of reviewing the new information.

3. Buffalo Township, Union County

The owner/operator requested review of Buffalo Township's interpretation of the ordinance definition for "Agricultural Operation" which excludes the practice of processing biosolids through the addition of lime to produce agricultural lime for application to farm fields. The OAG's East Brunswick case mentioned above and the model biosolids ordinance generated during that case is the primary resource in biosolid cases. The ordinance review is pending.

4. Wayne Township, Schuylkill County

The owner/operator requested review of Wayne Township's zoning ordinance provisions regulating "intensive agriculture." The OAG notified the Township of legal problems with the zoning ordinance provisions and offered the Township an opportunity to discuss and correct them. The OAG and Township are in negotiations seeking to resolve the matter without resorting to litigation.

5. East Nantmeal Township, Chester County

The owner/operator requested review of East Nantmeal Township's zoning ordinance provisions for forestry activities. The OAG notified the Township of legal problems with the zoning ordinance and offered the Township an opportunity to discuss and correct them. The

Township has drafted various ordinance amendments and the parties are in negotiations seeking to resolve the matter without resorting to litigation. The process is moving in a positive direction and the OAG hopes that this case will be resolved shortly. Since the 2016 Report, the OAG has received several timber harvesting cases. The OAG intends to use the East Nantmeal case as a template in which to analyze other timber harvesting cases.

6. Salem Township, Luzerne County

OAG received requests from two separate owners/operators requesting review of Township ordinance provisions regulating CAFOs. The OAG notified the Township of legal problems with the zoning ordinance and offered the Township an opportunity to discuss and correct them. The OAG approved the Township's proposed amendments and is awaiting enactment of those amendments. Negotiations continue on Conservation District and CAO issues.

7. Newlin Township, Chester County

A large group of individual owners/operators of horse farming operations requested review of Newlin Township's zoning ordinance provisions regulating equine operations, including mandatory horse stocking rates and special exception requirements. The OAG notified the Township of legal problems with the zoning ordinance and offered the Township an opportunity to discuss and correct them. After extensive negotiations, the Township has passed and enacted new ordinances. The OAG is awaiting proof from the Township that the ordinances have, indeed, been enacted. The Office also is in the process of doing a final check to ensure that no outstanding issues remain.

8. Union Township, Adams County

The owner/operator of an alpaca farming operation requested review of Union Township's zoning ordinance provisions regulating direct commercial sales of agricultural commodities. The

OAG notified the Township of legal problems with the ordinance provisions and offered the Township an opportunity to discuss and correct them. The OAG and Township are in negotiations seeking to resolve this matter without resorting to litigation.

9. Woodward Township, Clinton County

The owner/operator of a crop and animal production operation requested review of Woodward Township's zoning ordinance provisions regulating animal agriculture and prohibiting commercial animal agriculture in a zoning district that allowed other forms of agricultural operations. The owner/operator also complained about impermissible set-back requirements. The OAG notified the Township of legal problems with the ordinance provisions. The Township agreed to accept the OAG's amendments and is now in the process of enacting those amendments. Once the OAG receives proof of enactment, the case will be closed. The farmer has proceeded with his swine operation.

10. Hamilton Township, Adams County

The owner/operator of a crop and animal production operation requested review of Hamilton Township's zoning ordinance provisions regulating animal production operations and requiring a special exception. The owner/operator also requested review of the Township's ordinance requirements for greenhouses and agricultural road side stands. The ordinance review is pending.

11. Hereford Township, Berks County

The owner/operator of an animal agricultural operation requested review of Hereford Township's zoning ordinance provisions regarding fencing for agricultural operations. The ordinance review is pending.

12. Upper Saucon Township, Lehigh County

The owner/operator of an animal agricultural operation requested review of Upper Saucon Township's denial of a permit to build a barn to house animals on the operation. The ordinance review is pending.

13. Codorus Township, York County

The owner/operator of a CAFO requested review of Codorus Township's zoning, land development, and health ordinance provisions regulating CAFO's. The ordinance review is pending.

14. Ferguson Township, Centre County

The owner/operator of an equine operation requested review of Ferguson Township's zoning ordinance provision prohibiting livestock on parcels less than 50 acres and requiring conditional use approval for riding stables. The OAG accepted the case and outlined for the Township the legal deficiencies in the ordinances. The Township has responded that it wants to work with the OAG to resolve the case. Negotiations continue.

15. Longswamp Township, Berks County

The owner/operator of a crop farming operation requested review of Longswamp Township's application of its subdivision, land development and well drilling ordinances to the owner/operator's installation of a crop irrigation system. The ordinance review is pending.

E. Matters Settled/Resolved Since 2016 Report

1. West Fallowfield Township, Chester County

The owner/operator requested review of the Township ordinance provisions for signs at roadside stands and restrictions on the keeping of livestock. The OAG notified the owner/operator and the Township that it would not file a lawsuit. The owner/operator requested reconsideration

of the OAG's decision and submitted additional information to prove that he is engaged in a normal agricultural operation on the property. After considering the additional information, the OAG notified the Township of the legal problems with its application of residential ordinance provisions to preclude the owner/operator's keeping of livestock on a normal agricultural operation and offered the Township an opportunity to discuss and correct those problems. This action was resolved with the Township without resorting to litigation.

2. Limestone Township, Lycoming County

The owners/operators of two separate agricultural operations requested review of Limestone Township's zoning ordinance requirements for "intensive agricultural use." The owners/operators complained that the ordinance requirements prohibited or limited their normal agricultural operations, including the ability to construct manure storage facilities. The OAG notified the Township of legal problems with the ordinance provisions. During negotiations, the OAG and Township agreed to allow the owners/operators to proceed with construction of manure storage facilities in accordance with State standards during the pendency of the negotiations with the OAG. The County now handles zoning issues and the OAG reviewed the proposed County ordinances and approved of them.

3. Mount Joy Township, Adams County

The owner/operator requested review of Mount Joy Township's zoning ordinance provisions prohibiting the slaughtering and sale of poultry products produced from the poultry raised on their agricultural operation. The OAG notified the Township of legal problems with the zoning ordinance and offered the Township an opportunity to discuss and correct them. The Township enacted amendments that resolved the legal problems with the ordinance. The

Township also permitted the owner/operator to engage in the slaughtering and sale of poultry products while the parties negotiated the resolution to the OAG's action.

4. Salem Township, Luzerne County

The owner/operator requested review of Salem Township's zoning ordinance provisions for forestry activities. The OAG notified the Township of legal problems with sections of the ordinance requiring a conditional use for forestry activities and imposing unreasonable restrictions on forestry activities and offered the Township an opportunity to discuss and correct them. The Township enacted legally sufficient ordinances without having to resort to litigation.

5. Highland Township, Chester County

The owner/operator of a proposed turkey production operation requested review of Highland Township's zoning ordinance provisions regulating animal production operations and requiring a conditional use for intensive agricultural operations. The owner/operator also requested review of the Township's water supply ordinance provisions. The OAG notified the Township of legal problems with the ordinance provisions and offered the Township an opportunity to discuss and correct them. The OAG approved amendments that resolved the legal problems and the Township enacted those amendments. The Township also repealed the water supply ordinance. The Township suspended enforcement of the ordinance provisions pending the negotiations and permitted the owner/operator to proceed with constructing the turkey barn.

6. Cumberland Township, Adams County

The owner/operator requested review of Cumberland Township's ordinance provision that precludes CAOs in a zoning district that permits agricultural uses. The OAG notified the Township of legal problems with the zoning ordinance provision and offered the Township an opportunity to

discuss and correct it. Negotiations were successful, the ordinances were changed and enacted, and the case closed.

7. Gratz Borough, Dauphin County

The owner/operator requested review of Gratz Borough's zoning ordinance provisions requiring a special exception for "intensive agriculture" and a minimum of 30 acres for both agriculture and intensive agriculture, which prevented him from building poultry houses. The OAG notified the Borough of legal problems with the zoning ordinance provisions and offered the Borough an opportunity to discuss and correct them. Discussion between the Township and the OAG were successful. The legally sufficient ordinances were enacted and the case closed.

8. Municipality of Monroeville, Allegheny County

The owner/operator requested review of Municipality of Monroeville's zoning ordinance provisions for timber harvesting activities, including requiring conditional use approval and precluding harvesting on landslide prone soils. The OAG notified the Township of legal problems with the zoning ordinance and offered the Township an opportunity to discuss and correct them. Following negotiations, the OAG approved amendments that resolved the legal problems and the Township enacted those amendments.

9. Latimore Township, Adams County

The owner/operator of a plant nursery operation requested review of Latimore Township's zoning ordinance provisions limiting the sale of horticultural commodities (hostas) to only those grown on the property. The OAG accepted the case and informed the Township that while its ordinances did not violate state law the manner in which the Township applied those ordinances to this particular owner/operator did. After receiving the OAG's acceptance letter, the Township agreed to permit the nursery owner to produce hostas on her property and issued a new zoning permit.

F. Unresolved Matters Received Between July 6, 2016 and July 6, 2017

The following is a list of cases that were received during the term of this report that remain unresolved:

1. East Brandywine Township, Chester County

The owner/operator challenges the Township's ordinances as they apply to selling lumber harvested from her property, including the removal of tops/slash that remains after harvesting. The ordinance review is pending.

2. Hamilton Township, Adams County

The owner/operator filed an ACRE complaint concerning ordinances as they pertain to water management and the grading of his property. The ordinance review is pending.

3. Westtown Township, Chester County

A landowner complains that the Township is not permitting her to have roosters on her property. The ordinance review is pending.

4. Walker Township, Schuylkill County

The owner/operator sought to expand egg laying operations. He challenges the Township's restrictions on what it defines as "intensive agriculture." The ordinance review is pending.

5. Lower Milford Township, Lehigh County

The owner/operator believes that the Township is placing overly restrictive and illegal requirements on his harvesting of timber. The ordinance review is pending.

6. Lower Saucon, Northampton County

Another ACRE complaint dealing with ordinances as they apply to timber harvesting. The ordinance review is pending.

7. North Coventry Township, Chester County

This case involves ordinances as they apply to timber harvesting and various restrictions on the use of roads that connect the harvest site to main roads. The ordinance review is pending.

8. Pennsbury Township, Chester County

ACRE complainant challenges ordinances concerning Natural Resource Protection Standards and Stormwater Management regulations as they pertain to timber harvesting. The ordinance review is pending.

9. Little Britain Township, Lancaster County

Owner/operator filed an ACRE complaint questioning the Township’s stocking rates and types of animals permitted on the land. The ordinance review is pending.

G. Active Re-Opened Matters and Reconsideration Requests

1. Lehigh Township, Northampton County

The OAG accepted a request for review of an ordinance that regulated “commercial livestock operations.” Lehigh Township enacted amendments that resolved the legal problems with the ordinance; however, the OAG was notified that Lehigh Township enacted new ordinances to regulate Concentrated Animal Feeding Operations. The OAG notified Lehigh Township of legal problems with the ordinances and offered the Township an opportunity to discuss and correct them. The OAG and Township are currently in negotiations seeking to resolve the matter without resorting to litigation.

2. Fairview Township, Erie County

The owners/operators requested review of Fairview Township’s ordinance and actions in re-zoning an agricultural zone to a residential zone and precluding a pre-existing agricultural

operation. The owners/operators complained that the ordinance prohibits or limits normal agricultural operations. The OAG notified the owner/operator and the Township that it would not file a lawsuit. The owners/operators requested reconsideration of the OAG's decision and submitted additional information to prove they are engaged in a normal agricultural operation. The OAG is considering that additional information and the Township's written response.

3. Centerville Borough, Washington County

The owner/operator requested review of a Borough ordinance defining commercial and non-commercial agriculture, requiring a permit for a private non-commercial use in the Agricultural Zoning Area, and imposing a fine for non-compliance. The owner/operator complained that he was engaged in commercial agriculture, but the Borough required that he apply for a non-commercial use permit, and then denied the permit. The OAG notified the owner/operator and the Borough that it would not file a lawsuit. The owners/operators requested reconsideration of the OAG's decision and submitted additional information to prove they are engaged in a normal agricultural operation. The OAG is considering that additional information.