

RESOLUTION

**RE: Dispute Resolution Hearing, N.J.A.C. 2:76-2.10
In the Matter of Oak Grove Plantation
Block , lot ; Township of Franklin, County of Hunterdon**

WHEREAS:

On October 3, 2005, a Right to Farm (“RTF”) Application for Hearing was submitted to the Hunterdon County Agriculture Development Board (“CADB”), along with a Commercial Farm Certification completed by Ted Blew, owner of Oak Grove Plantation (Block , Lot), a farm that raises hogs and grows vegetables, grain and hay. The RTF Application requested approval from the CADB for the erection of a solar array to produce electricity for the agriculture operation and residence as a Site Specific Agriculture Management Practice.

At its October 13, 2005 meeting, the CADB discussed the application and determined that Oak Grove Plantation is a commercial farm operation. A Right to Farm hearing was scheduled for December 8, 2005 in accordance with N.J.A.C. 2:76-2.10.

On December 7, 2005, the CADB conducted a site visit of Oak Grove Plantation property.

On December 8, 2005, the CADB held a public hearing to determine:

(1) Whether the farming activities conducted on the property and the erection of a solar array system and use of the system by Oak Grove Plantation constituted a generally accepted agricultural practice;

(2) Whether the solar arrays would be required to have screening as required by the Township Resolution if a neighboring landowner complained within one year after being erected.

At the hearing, Ted Blew appeared on behalf of Oak Grove Plantation. No representative from the Township of Franklin was present at the hearing. The Township received formal written notice of the scheduled hearing under cover dated October 26, 2005.

Ted Blew presented his RTF application to the CADB. He provided a brief history of the farm and testified as follows:

1. He entered into a contract with a company that would erect the solar array system on his farm.

2. He went to Franklin Township for approval for the necessary permits to erect the solar array system.

3. The zoning officer denied the permit to erect the array in September of 2005.

4. On October 12, 2005, he had a hearing with the Franklin Township Planning Board and received approval for the installation of the system. The Township's Resolution granting approval included a provision that was unforeseen by the applicant that the array would have to be screened from the public if someone came forth within one year of memorialization of the resolution complaining about the panels.

5. According to Mr. Blew, he had testified at the Planning Board hearing on October 12th that the screening was not possible. Mr. Blew testified that the engineer representing the company that was to install the array testified that when any shrubbery or trees surrounding the array reached 4 feet high, they would have to be cut off. According to Mr. Blew the engineer testified this was because any screening plants that exceeded 4 feet would affect the ability of the panels to create energy. This impact would be more severe in the fall and winter when the sun is lower in the sky.

6. According to Mr. Blew, the site for the erection of the solar arrays was chosen because it is closest to the existing utilities and in an area where it is used as a horse pasture. Additional fencing will be put in and the area will be used to raise chickens, so there will still be an agricultural operation in the location.

The CADB discussed the issue regarding screening and the use of solar arrays for the farms private energy needs.

No one appeared to object to the application.

NOW, THEREFORE, BE IT RESOLVED THAT THE HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD MAKES THE FOLLOWING FINDINGS OF FACT:

1. The property in question is known as Block , Lot in the Township of Franklin.

2. Oak Grove Plantation runs a commercial farming operation on the property and is entitled to protection under the New Jersey Right-to-Farm law.

3. The Township of Franklin approved the erection of the solar array system with a stipulation that the array would have to be screened from the public if someone came forth within one year of memorialization of the resolution complaining about the panels.

4. The screening of the solar array system would affect the ability of the panels to create energy.

5. The erection of the solar array system as an alternative energy source that enables a farmer to generate energy for the use of their farm operation and so is incorporated in a right to farm.

NOW, THEREFORE, BE IT RESOLVED BY THE HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD AS FOLLOWS:

1. The Right to Farm application submitted by Oak Grove Plantation to erect a solar array system on the property without the requirement for any screening is approved.

2. The solar panel system is approved as incidental to the farming operation. This Resolution does not constitute approval for the erection of an energy producing system, which is designed for the purpose of the farmer selling energy to other.

This determination shall be forwarded to the State Agricultural Development Committee within thirty (30) days, pursuant to N.J.A.C. 2:76-2.3(e).

Any person aggrieved by this decision, may appeal to the State Agricultural Development Committee, pursuant to N.J.A.C. 2:76-2.3(f).

Dated: January ____, 2006

ROBERT HOFFMAN, Chairperson