

August 25, 2000

Jamie Rickey

Re: Right to Farm Matter
Rickey & Son Farm
Vernon Township, Sussex County

Dear Mr. Rickey:

Enclosed please find copies of the State Agriculture Development Committee's ("SADC's") Resolution and Final Decision for your matter. Please be advised that this final determination by the SADC is binding, subject to the right of appeal to the Appellate Division of the Superior Court.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Gregory Romano

Enclosure

c: Donna Traylor, Administrator, Sussex CADB
Stuart R. Koenig, Esq.
Don Teolis, Zoning Officer, Township of Vernon
Thomas F. Lowe, Clerk, Office of Administrative Law (Newark)

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION #FY01R7(11)

July 27, 2000

Re: Rickey & Son Farm

**Vernon Township, Sussex County
Acreage: approximately 155 acres
Right to Farm Matter**

WHEREAS, in June of 1999, the Sussex County Agriculture Development Board (CADB) received a complaint from the Township of Vernon against Rickey and Son Farm in Vernon Township for alleged zoning violations from commercial concerts and camping activities on Rickey & Son Farm;

WHEREAS, the Sussex CADB forwarded said complaint to the State Agriculture Development Committee (SADC), as there existed no agricultural management practice recommended by the SADC and adopted pursuant to the provisions of the Administrative Procedure Act with respect to the disputed activities; and

WHEREAS, on October 28, 1999, the SADC held a public hearing to determine whether the disputed activities were agricultural activities and if so, whether they conformed to generally accepted agricultural operations and practices; and

WHEREAS, Mr. Rickey failed to attend the October 28, 1999 hearing and failed to provide written testimony; and

WHEREAS, on December 3, 1999, the SADC found that Rickey and Son Farm's concerts and associated camping are not agriculture-related educational and farm-based recreational activities, the camping is not a separate agricultural activity and that the concerts and camping at Rickey & Son Farm are not related to marketing the agricultural or horticultural output of the farm and are not generally accepted agricultural management practices pursuant to the Right to Farm Act; and

WHEREAS, the aforementioned recommendations were provided to the Sussex CADB Chairman, Sussex CADB Administrator, Vernon Township Zoning Officer, Vernon Township Planning Board Attorney and Mr. Rickey; and

WHEREAS, pursuant to N.J.S.A. 4:1C-10.1 and N.J.A.C. 2:76-2.10, the Sussex CADB held a public hearing on December 20, 1999, wherein testimony was given by Don Teolis,

Vernon Township Zoning Officer and Mr. Rickey failed to appear; and

WHEREAS, SADC staff was informed by the Sussex CADB administrator that Mr. Rickey was given notice of the CADB hearing but did not attend the hearing; and

WHEREAS, the Sussex CADB presented their findings and recommendations that the concerts and camping at Rickey & Son Farm are not related to marketing the agricultural or horticultural output of the farm and are not generally accepted agricultural management practices pursuant to the Right to Farm Act and forwarded same to the SADC on December 22, 1999; and

WHEREAS, on January 4, 2000 the SADC received a notice of appeal by Jamie Rickey in which he appealed the recommendation of the Sussex CADB to the SADC; and

WHEREAS, the SADC transmitted the matter to the Office of Administrative Law (OAL) on January 27, 2000 for an adjudication; and

WHEREAS, Mr. Rickey failed to appear at the Settlement Conference scheduled in this matter for June 1, 2000 at the OAL in Newark, New Jersey.

NOW THEREFORE BE IT RESOLVED, the SADC hereby adopts the attached Final Decision which dismisses Jamie Rickey's appeal and which leaves the December 20, 1999 decision of the Sussex CADB binding; and

BE IT FURTHER RESOLVED THAT this final determination of the SADC shall be binding, subject to the right of appeal to the Appellate Division of the Superior Court.

Date	Carol Shipp, Acting Chairperson, State Agriculture Development Committee

VOTE WAS RECORDED AS FOLLOWS:

Carol Shipp, Chairperson	YES
Dennis Davidson (rep. DEP Comm. Shinn)	ABSENT
Richard Binetsky (rep. DCA Comm. Kenny)	ABSENT
Donn Derr (rep. Dean Carlton)	YES
Pat Griffith (rep. Treas. Machold)	YES
Julia Allen	YES
Lisa Specca	YES
Noble McNaughton	YES
Andrew Borisuk	ABSTAIN
William Fox	YES
Frank Baitinger	YES

(Approved SADC meeting - 7/27/00)

STATE OF NEW JERSEY
STATE AGRICULTURE
DEVELOPMENT COMMITTEE
OAL DOCKET NO. AGR 03319-00N
SADC DOCKET NO. RTF #1922-01

)
)
In re Rickey & Son Farm)
)

FINAL DECISION

This matter was returned to the State Agriculture Development Committee (SADC) by the Office of Administrative Law on June 15, 2000 for disposition because Jamie Rickey, representative of Rickey & Son Farm, failed to appear at a scheduled hearing on June 1, 2000. For the reasons set forth below, the SADC dismisses the appeal filed by Rickey & Son Farm.

BACKGROUND AND FACTS

Pursuant to the Right to Farm Act (Act), N.J.S.A. 4:1C-10.1a, Vernon Township (Township) filed a complaint with the Sussex County Agriculture Development Board (CADB) in June 1999 against Rickey and Son Farm (Rickey & Son) for violations of zoning ordinances. Specifically, Rickey and Son were conducting commercial concert and camping events on its property allegedly in violation of the Township's zoning ordinances. Pursuant to N.J.S.A. 4:1C-10.1c, the CADB forwarded the complaint to the SADC, as there existed no agricultural management practice recommended by the SADC and adopted pursuant to the provisions of the "Administrative Procedure Act" with respect to camping activities and concerts on farms.

After receiving the complaint, the SADC contacted W. James Rickey ("Jamie" Rickey), manager of Rickey & Son Farm, by letter dated August 3, 1999, pursuant to N.J.A.C. 2:76-2.10 to provide evidence that the agricultural operation is a commercial farm pursuant to the definition of commercial farm in the Act. Mr. Rickey failed to respond to this request. On September 10, 1999, the SADC sent another letter to Mr. Rickey advising him that if he did not supply the information previously requested within 7 days of receipt of the letter, the SADC would notify the Township that he was ineligible for protection under the Act. Once again, Mr. Rickey did not respond to the letter. The SADC then sent a letter to Don Teolis, Zoning Officer for the Township, on September 30, 1999, advising him that Mr. Rickey failed to provide proof that Rickey & Son Farm was a commercial farm, and that therefore, the farm is not eligible for protection under the Act.

On October 1, 1999, Mr. Rickey faxed the requested information to the SADC. On October 4, 1999, Mr. Rickey sent a letter to Gregory Romano, Executive Director of the SADC, stating that he faxed the requested information on October 1, 1999. On October 4, 1999, Mr. Rickey showed up at the offices of the SADC for an unscheduled meeting with Mr. Romano.

Mr. Romano met with Mr. Rickey to discuss the matter. Based upon the information submitted by Mr. Rickey, the SADC ascertained that Rickey & Son Farm was a commercial farm as defined at N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-9.

The SADC then scheduled a public hearing on this matter pursuant to N.J.S.A. 4:1C-10.1c for October 28, 1999 and notified Mr. Rickey of this date. Mr. Rickey informed Mr. Romano that he had a scheduling conflict. Based upon advice from the Attorney General's office, Mr. Romano advised that the hearing would not be adjourned. Mr. Romano confirmed the hearing date by letter to Mr. Rickey on October 6, 1999. By letter dated October 6, 1999, Mr. Rickey informed Mr. Romano that he had a conflict with the October 28, 1999 date.

Mr. Rickey sent a letter to Mr. Romano on October 24, 1999 requesting an adjournment of the hearing. Mr. Romano responded with a letter dated October 25, 1999, in which he stated that because the matter involved alleged continuing violations of municipal ordinances, the SADC did not believe it was appropriate to grant the request for postponement. In addition, he stated that the hearing was "quasi-legislative," in that the public would be permitted to provide any testimony, written or verbal regarding the disputed activities. Accordingly, he advised that there would be an opportunity for any person to provide written testimony, regardless of whether they attended the hearing. Mr. Romano also stated that he anticipated that the SADC would permit additional written testimony after the hearing, until November 11, 1999.

On October 26, 1999, representatives of the SADC and the Sussex County Agriculture Development Board ("CADB") made a site visit to Rickey and Son Farm. During that visit, Mr. Rickey stated that commercial musical concerts and associated camping take place on the farm and that similar future events were planned to take place on the farm. He also indicated that the following additional activities take place on the farm: hay production, Community Supported Agriculture, agricultural and other retail market sales, and an agricultural museum.

The SADC held a quasi-legislative public hearing on October 28, 1999, in accordance with N.J.S.A. 4:1C-10.1c to determine whether the disputed agricultural activities (the commercial musical concerts and camping) constitute generally accepted agricultural operations or practices. As discussed above, Mr. Rickey did not attend. He had a letter hand-delivered to the SADC on the day of the hearing, again requesting a postponement of the hearing.

Stuart Koenig, Esq., attorney for the Vernon Township Planning Board and Don Teolis, Zoning Officer for the Township, provided testimony at the hearing. Mr. Koenig and Mr. Teolis expressed the Township's concern with the impact on traffic and safety posed by the concerts and camping. Mr. Teolis stated that the activities at issue required a conditional use variance requiring site-plan approvals. He also stated that Mr. Rickey had not appeared before the Planning Board for approval for events which he was planning on the farm.

The SADC left the public record open for two weeks after the public hearing in order to accommodate written testimony from Mr. Rickey and other interested parties. Mr. Romano sent a letter to Mr. Rickey on November 4, 1999 advising him that the SADC was keeping the record open "to enable all interested parties to submit additional written testimony until the end of the business day on November 12, 1999." The SADC did not receive any testimony or letters from Mr. Rickey. Mr. Rickey failed to provide any information to the SADC to support a finding that the commercial music concerts and associated camping were protected agricultural activities under the Act and that they conformed to generally accepted agricultural practices.

The SADC issued its determination on December 3, 1999, finding that: Rickey and Son Farm's concerts and associated camping are not "agriculture-related educational and farm-based recreational activities;" the camping is not a separate agricultural activity; and the concerts and camping at Rickey & Son Farm are not "related to marketing the agricultural or horticultural output" of the farm and are not generally accepted agricultural management practices pursuant to the Right to Farm Act. These findings were issued to the Sussex CADB pursuant to N.J.S.A. 4:1C-10.1c. They were also provided to the Vernon Township Zoning Officer, Vernon Township Planning Board Attorney and Mr. Rickey.

The Sussex CADB held a public hearing on this matter on December 20, 1999 pursuant to N.J.S.A. 4:1C-10.1 and N.J.A.C. 2:76-2.10. Once again, Mr. Rickey failed to appear at the hearing despite being given notice of the hearing by the Sussex CADB administrator. Don Teolis provided testimony. The Sussex CADB found that the concerts and camping at Rickey & Son Farm are not "related to marketing the agricultural or horticultural output" of the farm and are not generally accepted agricultural management practices pursuant to the Right to Farm Act. It forwarded its findings to the SADC on December 22, 1999.

On January 4, 2000, the SADC received notification of Jamie Rickey's appeal of the decision of the Sussex CADB to the SADC. The notification did not state the basis for the appeal. Pursuant to the Right to Farm Act and the regulations promulgated thereunder, N.J.S.A. 4:1C-10.2 N.J.A.C. 2:76-2.10, and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the SADC transmitted the matter to the Office of Administrative Law (OAL) on January 27, 2000 for an administrative hearing.

On April 5, 2000, the SADC received a Notice of Filing from the OAL, which included a service list of parties bearing Mr. Rickey's name. The SADC then received a Notice of Settlement Conference from the OAL dated April 27, 2000, which included a service list of parties bearing Mr. Rickey's name. During a telephone conversation with an SADC staff person, Mr. Rickey mentioned that he had received the OAL notice of the Settlement Conference.

Mr. Rickey failed to appear at the Settlement Conference, which was scheduled for June 1, 2000 at the OAL in Newark, New Jersey. The OAL returned the matter to the SADC with a Notice of Failure to Appear, which the SADC received on June 19, 2000. The notice states that the petitioner, Rickey & Son Farm, failed to appear at a scheduled hearing and that “the case is, therefore, returned to the transmitting agency listed above for appropriate disposition.” The notice directs “any excuse for failure to appear” to be mailed to the OAL within 10 days of the notice.

On June 26, 2000, the SADC received a letter from Jamie Rickey in which he attached correspondence he had sent to the administrative law judge (ALJ) in this matter. The letter to the ALJ stated that he did not intentionally miss the settlement conference but had missed it because of a scheduling error. He stated that he had written the wrong date in his “schedule.” In the letter, he states twice that the basis of his appeal is that the SADC did not “allow [him] the opportunity to present verbal testimony and witnesses before issuing a recommendation to the Sussex [CADB].” Mr. Rickey also sent a notarized letter from his mother explaining that the “activities in question are part of a complete plan that is crucial to Rickey & Son Farm’s survival.” He also sent a notarized letter from an employee who stated that she remembered Mr. Rickey “scheduling farm work around a June 6, 2000 Settlement Conference date” and that he was “quite distressed” when he discovered the conference date to actually be June 1, 2000.

FINDINGS AND CONCLUSIONS

Throughout the course of the Right to Farm proceedings involving Rickey & Son Farm, Mr. Rickey has demonstrated a reluctance and inability to adhere to administrative, judicial, and statutory procedures established by the SADC, the Right to Farm Act and the OAL. He was uncooperative in responding to the SADC’s requests for information to establish whether his farm met the definition of “commercial farm.” While he did finally submit the documents, he did so in an untimely manner. Mr. Rickey then failed to attend all three hearings in this matter. Not only did he fail to attend these hearings, but he failed to provide any written testimony despite the opportunity to do so.

It is extremely important to note that throughout the entire course of this matter, Mr. Rickey has never explained in writing or verbally why he believes that the commercial concerts and associated camping are agricultural activities which conform to generally accepted agricultural operations and practices.

Mr. Rickey now contends that the basis of his appeal of the Sussex CADB’s decision is that the SADC did not allow him the opportunity to present verbal testimony at the SADC’s hearing. Based upon his failure to attend three hearings on his matter and his failure to put his position in writing to the SADC and the Sussex CADB, this contention is completely unfounded.

It is important to note that the SADC’s initial hearing was merely the first step in the hearing process. The Sussex CADB also held a hearing, giving Mr. Rickey a second opportunity to explain why he should be afforded the protections of the Act. Again, Mr. Rickey failed to attend.

He also did not provide anything in writing to the CADB. The OAL was the third step in the hearing process. Again, Mr. Rickey failed to attend.

Based on all of the above, the SADC hereby dismisses Jamie Rickey's appeal of the Sussex CADB determination on December 20, 1999.

Accordingly, the decision of the Sussex CADB, finding that Rickey and Son Farm's concerts and associated camping are not "agriculture-related educational and farm-based recreational activities", that the camping is not a separate agricultural activity and that the concerts and camping at Rickey & Son Farm are not "related to marketing the agricultural or horticultural output" of the farm and are not generally accepted agricultural management practices pursuant to the Right to Farm Act is binding.

This final determination of the SADC shall be binding, subject to the right of appeal to the Appellate Division of the Superior Court.

Date

Carol Shipp, Acting Chairperson,
State Agriculture Development Committee

S:\RIGHTTOFARM\RTFCASES\SUSSEX\#1922-01 - RICKEY\finaldecision.wpd