

RICK AND MONICA LARUE

OAL DKT. NO. ADC 14394-2012
AGENCY DKT. NO. SADC ID #1375

Petitioners,

v.

FINAL DECISION

MONMOUTH COUNTY AGRICULTURE
DEVELOPMENT BOARD,

Respondent.

The State Agriculture Development Committee (SADC) **ADOPTS** the Initial Decision, finding it fair and reasonable.

The SADC **MODIFIES** the Initial Decision for the limited purpose of addressing the contention of Rick and Monica LaRue ("LaRues" or "Petitioners") that, at its April and May 2012 meetings, the Monmouth County Agriculture Development Board ("MCADB" or "board") failed to comply with hearing procedures for site specific agricultural management practice ("SSAMP") determinations established in the Right to Farm Act, N.J.S.A. 4:1C-1, et seq., agency regulations at N.J.A.C. 2:76-2.3, and SADC Policy P-3 (collectively, the "RTFA procedures").

According to the LaRues, the MCADB improperly heard testimony regarding an underlying private dispute that was the subject of a superior court case in which it was alleged that the Petitioners had trespassed and cut trees on property owned by an adjoining landowner. The LaRues claimed in their October 31, 2013 Exceptions to the Initial Decision that, instead of the MCADB taking such testimony, the RTFA procedures limited the board to "determin[ing] if the LaRue's were a Commercial Farm first to determine whether the Board had jurisdiction." Petitioners asserted that the MCADB erred "by taking complaints under oath that were related to the lawsuit from the neighbor rather than first reviewing LaRue's income and any other certified application paperwork submitted."

We find nothing improper in the MCADB's handling of commercial farm eligibility in the context of the LaRues' SSAMP application. The RTFA hearing procedures require county agriculture development boards (CADBs) to determine whether a farm is a "commercial farm" as defined in N.J.S.A. 4:1C-3:

"Commercial farm" means (1) a farm management unit of

no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c. 48 (C.54:4-23.1 et seq.), or (2) a farm management unit less than five acres, producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c. 48 (C.54:4-23.1 et seq.).

Since the Petitioners' proof of commercial farm income was attributed, in large part, to the sale of harvested timber, the MCADB was required to probe whether, and to what extent, the wood products came from the LaRue farm and from the adjoining property. The SADC sees nothing wrong with the MCADB attempting to collect as much information as possible at its April and May 2012 meetings relevant to the LaRues' income from agricultural output produced from their farm, including the solicitation of testimony and comments from the public, in order to achieve reasonable assurance that the board's decision on commercial farm eligibility was proper. We disagree with the LaRues' assertion, set forth in a November 5, 2013 reply brief, that the RTFA hearing procedures limit a CADB's commercial farm income analysis to "the written certified application form and related documents". Commercial farm eligibility is the foundation upon which right-to-farm protection is afforded, and a CADB's investigation of that critical issue should not be constrained in the manner the Petitioners suggest here.

IT IS SO ORDERED.

Dated: January 23, 2014 /s/ Douglas H. Fisher
Douglas H. Fisher, Chairperson
State Agriculture Development
Committee

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