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Pennsylvania Department of Agriculture
Bureau of Farmland Preservation
ATTN: Douglas M. Wolfgang, Director
2301 North Cameron Street
Harrisburg, PA 17110-9408

Re: Comment on Proposed Rulemaking Pennsylvania Department of Agriculture ID # 2-159 Preferential Assessment of Farmland and Forest Land under the Clean and Green Act

This letter is offered as a formal comment to the proposed rulemaking of the Pennsylvania Department of Agriculture ("Agriculture") titled *Preferential Assessment of Farmland and Forest Land under the Clean and Green Act*. This proposed rulemaking was published on August 3, 2013, at 43 Pa.B. 4344.


I was a prime sponsor of the act of October 27, 2010 (P.L. 866, No. 88) ("Act 88 of 2010"). That legislation revised the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (the Clean and Green Act). One of the objectives of Act 88 of 2010 was to clarify that *if* an owner of land that is enrolled and receiving preferential tax assessment splits-off a portion of that enrolled land, *and* that split-off complies with the requirements presented at 72 P.S. § 5490.6(a.1)(1)(i), *then* roll-back taxes are only due with respect to the split-off portion of the enrolled land – and *not* with respect to the entire tract of enrolled land. This clarification was, in part, in response to a 2009 Commonwealth Court case (*Donnelly v. York County Board of Assessment* (976 A.2d 1226)), which suggested there was ambiguity on this point.

Act 88 of 2010 made substantial revisions to the provision at 72 P.S. § 5490.6(a.1)(2), clarifying that under the circumstances presented in the preceding paragraph roll-back taxes are "... only due with respect to the split-off portion of the land." I recommend Agriculture revise its final-form regulation to include one or more examples to underscore this clarification. The most logical place to add an example would be at § 137b.82 (titled Split-off tract). An example such as the following would be consistent with both the language and intent of the Clean and Green Act:

Example: A landowner owns a 60-acre tract of land that is enrolled and receiving preferential assessment. The landowner splits-off two acres for one or more of the uses described in the Act, at 72 P.S. § 5490.6(a.1)(1)(i) and the split-off otherwise meets the requirements of that provision. Roll-back taxes are due with respect to the 2-acre split-off tract, but not with respect to the remaining 58 acres. The owner of the 60-acre tract who split-off the two-acre tract is responsible to pay these roll-back taxes.

I encourage Agriculture to consider presenting additional examples that are consistent with Act 88 of 2010 and the Clean and Green Act in the final-form regulation. Thank you for considering this comment.

Sincerely,



GENE YAW
SENATOR

GY/arp