

Daniel Spitzer  
Partner  
Direct Dial: 716.848.1420  
[dspitzer@hodgsonruss.com](mailto:dspitzer@hodgsonruss.com)

Alicia Legland  
Associate  
Direct Dial: 518.433.2416  
[alegland@hodgsonruss.com](mailto:alegland@hodgsonruss.com)



June 13, 2025

**VIA ELECTRONIC MAIL**

Town of Washington Zoning Board of Appeals  
10 Reservoir Drive  
Millbrook, New York 12545

To: Members of the Zoning Board of Appeals

Re: August Madeline Fields LLC Farm

Our firm represents the August Madeline Fields LLC Farm (the “Farm”), owned by Mr. Michael Pryor (“Landowner”) and located at 211 Shunpike/749 Stanford Road Clinton Corners, New York 12514 (Tax ID 6666-00-727971-0000) (the “Property”) in the Town of Washington (“Town”). The purpose of this letter is to appeal the Removal Notice and Compliance Order to Remedy and to notify the Town that the Landowner has requested review of this matter by the New York State Department of Agriculture and Markets (the “Department”).

**I. Background.**

The Farm received a building permit dated May 2, 2024 to install solar panels onsite to provide electricity for the Farm. The Farm owns the solar panels and has no contract to sell the electricity to any outside entity. On February 18, 2025, in response to an appeal of the issuance of the building permit by nearby residents, the Town of Washington Zoning Board of Appeals (“ZBA”) voided the building permit and mandated that the Farm obtain a special use permit and site plan approval. *See* ZBA Resolution, dated Feb. 18, 2025 (“Resolution”). On or about May 7, 2025, the Town’s Building Inspector issued a notice ordering removal of the solar panels from the Farm (“Removal Notice”), attached hereto as Exhibit A. On May 23, 2025, our office submitted a request to the Department for review of this matter under Section 305-a(1) of the New York State Agriculture and Markets Law (“AML”), attached hereto as Exhibit B. On or about May 23, 2025, the Town’s Code Enforcement Officer issued a Compliance Order to Remedy stating that the solar panels must be removed by June 23, 2025, attached hereto as Exhibit C.

**II. Appeal of the Town’s demand that the solar panels be removed from the Property.**

The Farm is appealing the Removal Notice and Compliance Order to Remedy as they are in violation of New York State law and inconsistent with the Town’s and County’s planning policies. Section 165-109(a) of the Town of Washington Town Code (“Code”) authorizes the ZBA to “hear and decide appeals from and review any order, requirement, decision, and determination made by the Building Inspector or the Zoning Administrator[.]” Until the ZBA

renders a determination on this appeal, this matter is stayed, and the Landowner is not required to remove the solar panels until a resolution is reached. *See* Code § 165-115(I) (“An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies for the Zoning Board of Appeals, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, it would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order[.]”).

**a. The Town’s demand that the solar panels be removed from the Property violates New York State law and is currently under review by the Department.**

The Farm is a Farm Operation, which is defined in the AML as,

land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a “commercial horse boarding operation” ... “timber operation” ... and “commercial equine operation” ... Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

N.Y. AG. & MKTS. LAW § 301(11) (McKinney 2019) (emphasis added). The AML defines “crops, livestock and livestock products” to include Christmas trees. *See id.* at § 301(2)(g) (“Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.”). The Farm produces Christmas trees for sale and contains a commercial horse boarding operation and commercial equine operation.<sup>1</sup> Reimagine Horsemanship, LLC operates on the Farm, boards more than ten horses, and provides services such as equine rehabilitation, horse training, lessons, and trail riding.<sup>2</sup> These operations generate more than \$10,000 in gross income annually. The ZBA itself conceded the fact that the Farm is a Farm Operation. *See* Resolution (“the record demonstrates that the Property owner ... engages a horse-boarding

---

<sup>1</sup> *See* N.Y. AG. & MKTS. LAW § 301(13) (“Commercial horse boarding operation” is defined as “an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production.”); *see* N.Y. AG. & MKTS. LAW § 301(18) (“Commercial equine operation” is defined as “an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production.”).

<sup>2</sup> *See* <https://www.reimaginehorsemanship.com/>.

operation and tree farm operation on the Property[.]”). The Farm also meets the definition of “Agriculture” in the Code.<sup>3</sup>

Farm Operations are protected under the AML from overly restrictive local laws and regulations. Section 305-a of the AML states that municipalities, when enacting and executing comprehensive plans and local laws, must exercise such authority to realize the policy and goals of Article 25-AA of the AML and “shall not unreasonably restrict or regulate farm operations within agricultural districts[.]” N.Y. AG. & MKTS. LAW § 305-a(1) (emphasis added). Local zoning laws and actions that conflict with the AML’s policy objectives will be superseded. *See Inter-Lakes Health, Inc. v. Town of Ticonderoga Town Bd.*, 13 A.D.3d 846 (3d Dep’t 2004); *see also* 2 N.Y. ZONING LAW & PRAC. § 21:1 (5th ed. 2024) (“In cases where a local law is determined to be unreasonable, staff work with the local government concerned to develop mutually acceptable modifications. If a local government is unwilling to modify a restrictive law, the Department is authorized to take action to compel compliance with the [AML].”).

The Removal Notice and Compliance Order to Remedy are unreasonably restrictive in violation of AML § 305-a. The Town is attempting to force a protected Farm Operation to go through more onerous, burdensome permitting requirements to install on-farm equipment than the Farm Operation itself is required to obtain. The Town is trying to require the Farm—which does not itself require a special use permit to operate since it is permitted in the zoning district as of right—to go through the process of obtaining a special use permit and site plan approval for installation of equipment that will be used to power the Farm. This is entirely contrary to the Department guidance regarding local regulations of small, on-farm solar panels. The Department considers solar arrays used to power a Farm Operation to be “on-farm equipment” and states that generally, “construction of on-farm buildings and the use of land for agricultural purposes within a county adopted, State certified agricultural district should not be subject to site plan review, special use permits or non-conforming use requirements.”<sup>4</sup> The AML includes in the definition of Farm Operation the “land and on-farm buildings, equipment, manure processing and handling facilities, and practices” contributing to production of crops, livestock, and other products. N.Y. AG. & MKTS. LAW § 301(11). Meaning, if a town is unreasonably restricting placement of on-farm equipment (*i.e.*, solar panels) on a Farm Operation, it is unreasonably restricting the Farm Operation itself, in direct violation of the AML. That is exactly what the Town is attempting to do here.

Given this burdensome and overly restrictive requirement placed on the Farm—a protected Farm Operation—in violation of the AML, the Farm is appealing the Removal Notice

---

<sup>3</sup> See Code § 165-40 (Agriculture is defined as “The utilization of land for the production, preservation, processing, and sale of agricultural commodities, such as crops, plants, vines, trees, livestock, honey, Christmas trees, poultry, or dairy products.”).

<sup>4</sup> N.Y.S. DEP’T OF AGRIC. & MARKETS, *Guidelines for Review of Local Laws Affecting Small Wind Energy Production Facilities and Solar Devices* (2012) at 1; *see also* Matter of Compelling Compliance with provisions of Agric. And Markets Law § 305-a(1) by Town of Clarence, *Decision and Order* (June 30, 2015) (“the Department ... determined that the farm meets the Department’s standard for AML §305-a protection for wind turbines as either on-farm equipment or an on-farm building”).

and Compliance Order to Remedy and requested the review of the Department under Section 305-a of the AML.

**b. The Town’s demand that the solar panels be removed from the Property is inconsistent with the Town’s Comprehensive Plan, the County’s Agricultural and Farmland Protection Plan, and the County’s Model Right to Farm Law.**

The Town’s long-term vision for its future, as made plain in the 2015 Town of Washington Comprehensive Plan (“Comp Plan”), is to protect and preserve agriculture in the Town. The Vision Statement itself states “[w]e envision the Town of Washington will remain a rural community...” Comp Plan at 37; *see also id.* at 43 (Objective 1 of Goal II is to “Conserve rural lands: farms, agricultural soils, and open space”). A community survey conducted during preparation of the Comp Plan indicated that “respondents were supportive of agricultural based businesses and did not want chain or big box stores” and 64% of residents strongly agreed that protection of agriculture from development should be prioritized. *Id.* at 35-36 (emphasis added). The Town’s own policies for conserving agricultural land include “[s]upport [of] a variety of farm types and farm businesses, such as niche farming, micro-farming, cooperatives and value-added agriculture facilities[.]” and ensuring Town policies comply with the AML. *Id.* at 44. To promote these policies, the Comp Plan includes recommendations such as “[r]eview[ing] and expand[ing] allowed uses for farm businesses” and “[c]onsider[ing] the use of farm-scale alternative energy (such as wind turbines)[.]” *Id.* at 45 (emphasis added). These policies are unchanged by the Town’s efforts in 2022 and 2023 to update the Comp Plan. *See* 2023 Town of Washington Comprehensive Plan Update, Draft Submitted December 2022 (“The 2015 plan focused on protection of agriculture ... This Update does not change but builds on the major principles of the 2015 Plan.”).

Similarly, Dutchess County heavily prioritizes protection and preservation of the County’s agricultural industry in its plans and policies. The Dutchess County Agricultural and Farmland Protection Plan (County Plan), Executive Summary, states in its *first sentence* that

[a]griculture has been and continues to be one of Dutchess County's primary industries. Our economy, rural landscape, community character, environment, health of residents, and overall quality of life are all uniquely and positively affected by farms operating here.

County Plan, Exec. Summary at 1. The County Plan describes the challenges to the County’s agricultural industry, including the “high cost of farm operations [like energy costs] and of farmland coupled with low monetary returns,” as well as potential actions to address these challenges. *Id.* at 4. Two of the five priority initiatives are farmland preservation and farm friendly regulation. The County indicates that

Agriculture is an enterprise unlike most other businesses ... Municipal officials tasked with enforcing local laws are often not familiar with the unique needs of farms, nor aware of the unique State regulations and County programs and policies that apply to agricultural operations. This Plan recommends that the various

County agencies involved with educational efforts continue to provide agriculture-related training programs, farm-friendly land use regulation models and support materials for local officials.

*Id.* at 10. The County Plan also includes a Model Right to Farm Law (“Model Law”), which the Town has not adopted, despite its effusive pro-agriculture rhetoric in the Comp Plan, that states as one of its purposes to “protect the existence and operation of farms” and notes that “to maintain a viable farming economy ... it is necessary to ... *allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.*” Model Law § 1 (emphasis added). The Model Law defines “Agricultural Practices” to include operation of farm equipment (such as solar panels). *Id.* at § 2.

Despite all these Town- and County-level policies regarding the preservation and protection of agriculture, the Town is actively trying to create onerous roadblocks for a farm attempting to sustainably generate electricity to power the farm. As discussed above, the Farm is a Farm Operation in a County-certified agricultural district, protected under the AML. The solar panels are not a commercial solar project – the solar panels are on-farm equipment designed solely to provide electricity to the Farm. Renewable energy generation, like solar panels and wind turbines, located on farms allows farmers to reduce high overhead costs by sustainably generating electricity onsite. This opens the door for more of the farm’s profits to be put directly back into farming, rather than overhead and other costs. And as noted above, because the solar panels are for on-farm use only, the Department considers the solar panels to be on-farm equipment. As a result, with its demand that the Farm remove the solar panels, the Town is mandating a farm owner in the Town remove immensely helpful and efficient on-farm equipment from a Farm Operation—which will allow a farmer to focus more of its profit into maintaining the farm itself rather than on overhead costs—in complete contrast with the goals and policies of the Town and County to protect, support, and grow the local agricultural industry.

### **III. Rescission of the building permit violated the Landowner’s property rights.**

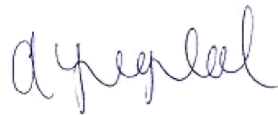
New York law holds that a vested right is “acquired when, pursuant to a legally issued permit, the landowner demonstrates a commitment to the purpose for which the permit was granted by effecting substantial changes and incurring substantial expenses to further the development.” *Town of Orangetown v. Magee*, 88 N.Y.2d 41, 47-8 (1996) (“The landowner’s actions relying on a valid permit must be so substantial that the municipal action results in serious loss rendering the improvements essentially valueless.”). Revoking a permit where an applicant has acquired a vested right opens municipalities up to constitutional claims, which may result in liability. *See id.* at 88 N.Y.2d 48 (“Inasmuch as the permit was revoked for unlawful reasons, the revocation resulted in an unconstitutional deprivation of defendants’ property rights.”). The Landowner applied for and obtained a building permit for the solar panels on the Farm. In reliance on that lawfully issued permit, the Landowner incurred significant expenses and had the solar panels fully installed on the Farm.

The ZBA determined in the Resolution that because the Property accommodates the Farm Operation—and not *solely* a residence—that the solar panels were not exempted from obtaining a special use permit and site plan approval. As the ZBA conceded in the Resolution, the Property comprises the Farm Operation, a residence used by the Landowner as necessary, and two rental units—one of which is occupied by the Horse Manager and the other by a Farm employee. Given the ambiguity in the definition of residential property in the Code and how it applies to the Farm in this case, the question of whether the Farm is residential and therefore does not need a special use permit and site plan approval for the solar panels was properly resolved in the Farm’s favor. *See Allen v. Adami*, 39 N.Y.2d 275, 277 (1976) (“Since zoning regulations are in derogation of the common law, they must be strictly construed against the municipality which has enacted and seeks to enforce them. Any ambiguity in the language used in such regulations must be resolved in favor of the property owner.”) (internal citations omitted). As such, the Building Inspector lawfully issued a building permit for the solar panels.

Further, there is certainly no question about whether the solar panels for which the building permit was granted have reached “substantial completion” – the solar panels are fully installed onsite. The purpose for which the building permit was sought has been fulfilled. At this post-installation stage, to require the Landowner to remove the solar panels would “render[] the improvements essentially valueless.” *Town of Orangetown*, 88 N.Y.2d at 48. This is a violation of the Landowner’s property rights, as the Farm has a vested right in the solar panel installation.

We thank you for your consideration of this letter. If you have any questions or concerns, please do not hesitate to contact me at (518) 433-2416 or [alegland@hodgsonruss.com](mailto:alegland@hodgsonruss.com).

Very truly yours,



Alicia R. Legland

ARL  
Enclosures

cc: Chrissy Briggs, *Town Clerk*, Town of Washington (*via email*)  
Jonathan Ialongo, *Building Inspector & Zoning Administrator*, Town of Washington (*via email*)  
Kyle W. Barnett, Esq., *Town Attorney*, Town of Washington (*via email*)  
Michael Pryor, *Landowner* (*via email*)

# Exhibit A



**TOWN OF WASHINGTON  
BUILDING AND ZONING DEPARTMENT**

**P.O. Box 667, 10 Reservoir Drive  
Millbrook, NY 12545**

**Phone (845) 677-3419 Fax (845) 677-1195**

**Email: [buildinginspector@washingtontny.org](mailto:buildinginspector@washingtontny.org)**

**[www.washingtontny.org](http://www.washingtontny.org) Cell: (845) 219-9724**

5/7/2025

RE: 749 Stanford Road; 6666-00-727971

To whom it may concern;

This letter is in regards to the decision of the Town of Washington Zoning Board of Appeal decision to void Building Permit 3456 for the installation of a ground mounted solar array. Per that decision, the Building Permit is voided and the solar construction needs to be removed from the property. Should you decide to install a new solar array, an application must be made to the Town of Washington Planning Board for a Special Permit to allow the installation. The Town requires that since the Building Permit is voided, the solar panels are considered an unlawful structure and will need to be taken down from its current installation. The Town will also verify that this has happened to be in compliance with the resolution passed by the Zoning Board of Appeals.

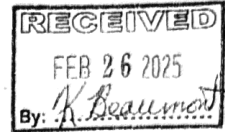
Sincerely;

  
Jonathan Jalongo

Building Inspector and Zoning Administrator



Town of Washington  
**ZONING BOARD OF APPEALS**  
10 Reservoir Drive  
Millbrook, NY 12545  
845-677-3419 ext. 116



**RESOLUTION OVERTURNING BUILDING INSPECTOR DETERMINATION AND  
REVOKING BUILDING PERMIT**

**Arcadia Fields**  
746 Stanford Road  
Millbrook, New York 12545

**Date: February 18, 2025**

**Motion:** Redl

**Second:** Briggs

WHEREAS, appellants Lisa Biase and Lou Casciano, who own a 9.6-acre parcel at 5515 Route 82, Washington, NY, 12514, appeal the Town of Washington Building Inspector's ("Building Inspector") issuance of a building permit for a ground-mounted solar project (the "Project") to be constructed on property located at 749 Stanford Road, Washington, NY, 12514, Parcel No.135889-6666-00-434999-0000 ("the Property"); and

WHEREAS, appellants make various claims challenging the Project and the issuance of the building permit, including that the Project violates the 110% Rule set forth in Code Section 165-60(E)(1), that the Project violates the screening requirements of Section 165-60(F)(3)(c), that the Project would have a detrimental affect on appellants' property value, and that the Building Inspector made an incorrect determination as to the nonresidential character of the Property; and

WHEREAS, the Town of Washington Zoning Board of Appeals ("Zoning Board of Appeals") passed a motion on January 21, 2025 determining that the appeal is a Type II action under the State Environmental Quality Review Act and is not subject to review under the Act; and

WHEREAS, the Washington Town Code requires that the Zoning Board of Appeals publish notice of a public hearing at least five (5) days prior to the hearing in accordance with New York Town Law Section 267-a; and

WHEREAS, such a duly noticed public hearing was opened on December 17, 2025 at 6:30 p.m. at the Town Hall of the Town of Washington, 10 Reservoir Dr., Millbrook, NY, and continued and finally closed at the January 21, 2025 regular meeting; and

WHEREAS, at the public hearing, the Zoning Board of Appeals heard from the applicant, the appellants, and members of the public, and reviewed and considered all submissions filed with the Board while the public hearing remained open; and

WHEREAS, the Town of Washington Code Section 265-60, added by Local Law No. 1-2018, provides that approval of a ground-mounted solar energy system to be constructed on residential property does not require site plan review (Code Section 165-60(F)(3)(e)) but a solar energy system on nonresidential property requires special permit and site plan review by the Town of Washington Planning Board, ("Planning Board") (Code Section 165-60(F)(4)(e)); and

WHEREAS, under the Code, residential property is defined as "real property that is primarily used for residential purposes and contains a one- or two-family residence" and nonresidential property is defined as "real property that is not considered residential property" per Code Section 165-60(C); and

WHEREAS, the Building Inspector determined that the Property is residential property and therefore issued the building permit for the Project without referral to the Planning Board for special permit and site plan review; and

WHEREAS, the Property is located in the RL-5 (low-density residential) zone, is classified as a special farm (180) use, and receives significant Agricultural and Forest Land tax exemptions; and

WHEREAS, the record demonstrates that the Property owner lives in one residence, rents out two other residences situated on the Property to tenants, and also engages a horse-boarding operation and tree farm operation on the Property; and

WHEREAS, applicant concedes that the electricity generated by the solar panels will support the commercial operations just as it will serve the residences on the Property.

NOW, THEREFORE, the Zoning Board of Appeals makes the following determinations:

BE IT RESOLVED, that the Property is nonresidential property under the Code because it is not "primarily" used for residential purposes and, therefore, the Project requires Planning Board review for issuance of a special permit and site plan approval; and

BE IT FURTHER RESOLVED, that the Building Inspector's determination is overturned insofar as the Property should be characterized as nonresidential and the building permit is vacated; and

BE IT FURTHER RESOLVED, that the Building Inspector shall refer the matter to the Planning Board for appropriate review and approvals; and

BE IT FURTHER RESOLVED, that, because the nonresidential characterization of the Property is dispositive in this matter, the Zoning Board of Appeals declines to address appellants' other claims, which may be addressed by the Planning Board.

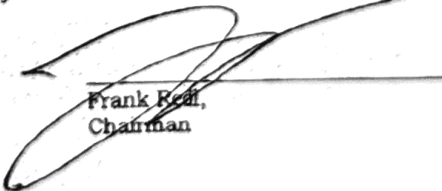
The foregoing Resolution was duly put to a vote which resulted as follows:

	YEA	NAY
Chairman Redl	/	
Member Briggs	/	
Member Kollmar	/	
Member Kunkle	/	
Member Rolland	/	
Alternate Frederick		

Dated: Millbrook, New York  
February 18, 2025

**CERTIFICATE**

I, Frank Redl, Chair of the Zoning Board of Appeals of the Town of LaGrange, do hereby certify that the foregoing is a true copy of a decision of the Zoning Board of Appeals made at a meeting thereof duly called and held on the \_\_\_ day of \_\_\_, 2024.

  
\_\_\_\_\_  
Frank Redl,  
Chairman

FILED THIS DATE 2/24/2025 IN THE OFFICE OF THE TOWN CLERK

---

# Exhibit B

Daniel Spitzer  
Partner  
Direct Dial: 716.848.1420  
[dspitzer@hodgsonruss.com](mailto:dspitzer@hodgsonruss.com)

Alicia Legland  
Associate  
Direct Dial: 518.433.2416  
[alegland@hodgsonruss.com](mailto:alegland@hodgsonruss.com)



May 23, 2025

**VIA ELECTRONIC MAIL [Kathleen.Tylutki@agriculture.ny.gov]**

NYS Department of Agriculture and Markets  
Division of Land and Water Resources  
10B Airline Drive  
Albany, NY 12235

To: Ms. Tylutki

Re: AML § 305-a(1) Review – August Madeline Fields LLC Farm

Our firm represents the August Madeline Fields LLC Farm, owned by Mr. Michael Pryor (“Landowner”) and located at 211 Shunpike/749 Stanford Road Clinton Corners, New York 12514 (Tax ID 6666-00-727971-0000) in the Town of Washington (the “Farm”). The Farm is located in Dutchess County Agricultural District 21. On behalf of the Landowner and Farm, we are requesting the New York State Department of Agriculture and Markets (“Department”) conduct a review of the actions of the Town of Washington (“Town”) pursuant to Section 305-a of the New York State Agriculture and Markets Law (“AML”). The Department-provided form for this request is attached hereto as Exhibit A.

The Farm received a building permit to install solar panels onsite solely to cover the electricity costs of the Farm. The Farm owns the solar panels and has no contract to sell the electricity to any outside entity. On February 18, 2025, in response to an appeal of the issuance of the building permit by nearby residents, the Town of Washington Zoning Board of Appeals (“ZBA”) voided the building permit finding that the solar panels are a “ground-mounted solar energy system” and that the Farm is “non-residential property” (despite the fact that the Landowner lives on the Farm, which is located in the RS-5 Low Density Residential Zoning District), and therefore, the solar panels require a special use permit and site plan approval. *See* ZBA Resolution, dated Feb. 18, 2025, attached hereto as Exhibit B. On May 7, 2025, the Town’s Building Inspector issued a notice ordering removal of the solar panels from the Farm, attached hereto as Exhibit C. The Building Inspector indicated that the building permit was voided due to the ZBA’s decision, that an application for a special use permit was required, and that the solar panels are an unlawful structure that must be removed.

**The Farm is a Farm Operation entitled to protection from unreasonable local restriction under AML § 305-a.**

The AML defines a Farm Operation as the

land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a “commercial horse boarding operation” ... “timber operation” ... and “commercial equine operation” ... Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

N.Y. AG. & MKTS. LAW § 301(11) (McKinney 2019) (emphasis added). The AML defines “crops, livestock and livestock products” to include Christmas trees. *See id.* at § 301(2)(g) (“Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.”). The Farm is a “Farm Operation” under the AML as it produces Christmas trees for sale and contains a commercial horse boarding operation and commercial equine operation.<sup>1</sup> Reimagine Horsemanship, LLC, an “Equine Wellness Center and School of Mindful Horsemanship,” operates on the Farm, boards more than ten horses, and provides services such as equine rehabilitation, horse training, and lessons.<sup>2</sup> These operations generate more than \$10,000 in gross income annually.

Farm Operations are protected under the AML from overly restrictive local laws and regulations. Section 305-a of the AML states that municipalities, when enacting and executing comprehensive plans and local laws, must exercise such authority to realize the policy and goals of Article 25-AA of the AML and “shall not unreasonably restrict or regulate farm operations within agricultural districts[.]” N.Y. AG. & MKTS. LAW § 305-a(1) (emphasis added).

The Town’s actions in rescinding the building permit for the solar panels and requiring the Farm obtain a special use permit and site plan approval is beyond unreasonably restrictive. Section 165-60(F)(3)(e) of the Town of Washington Town Code (“Code”) exempts accessory use ground-mounted solar energy systems on residential property from site plan review, but Section 165-60(F)(4)(e) requires a special permit and site plan approval for accessory use ground-mounted solar energy systems on non-residential property—apparently including

---

<sup>1</sup> See N.Y. AG. & MKTS. LAW § 301(13) (“Commercial horse boarding operation” is defined as “an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production.”); *see* N.Y. AG. & MKTS. LAW § 301(18) (“Commercial equine operation” is defined as “an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production.”).

<sup>2</sup> See <https://www.reimaginehorsemanship.com/>.

Farm Operations in County-adopted agricultural districts. The Code defines a ground-mounted solar energy system as “anchored to the ground and attached to a pole or other mounting system, detached from any other structure, and ... the anticipated annual total amount of electric energy generated from such system does not exceed 110% of the anticipated annual total amount of electric energy used by the applicant’s parcel[.]” Code at § 165-60(C). Regardless of whether or not the property is considered residential or non-residential (even though the Landowner lives on the property, and it is located in the RS-5 Low Density Residential Zoning District), the solar panels on the Farm meet this definition since the electricity produced is used solely to cover the Farm’s electricity costs. The Farm does not provide any potential excess electricity that may be generated to any other entity. Meaning, the Town is requiring the Farm to go through the onerous process of special use permit application and site plan review to sustainably generate electricity to run a protected Farm Operation in a County- adopted agricultural district.

The Department’s guidance makes clear that Farm Operations in County- adopted agricultural districts are not “special uses,” but rather, “constitutionally recognized land uses protected throughout state law.”<sup>3</sup> And the same is true for commercial horse boarding and equine operations. Only where larger public events are involved, like competitions and rodeos, might it be reasonable to require a special use permit or site plan approval for such operations – but not where the operation solely involves “those individuals who board their horses on the farm or are long-term training clients[.]”<sup>4</sup> Here, the actual Farm Operation is not even the focus of the permitting discussion. Rather, the handful of solar panels placed on the Farm Operation, used solely to power the Farm, is now being required to obtain a special use permit and site plan approval – an onerous, overly restrictive permitting hurdle not even required by the Farm Operation itself.

Besides defying logic, this requirement is completely contrary to the Department’s guidance regarding local regulations of small, on-farm solar panels. The Department considers “solar devices that do not exceed 110% of the farm’s anticipated electrical needs to be on-farm equipment” and states that generally, “construction of on-farm buildings and the use of land for agricultural purposes within a county adopted, State certified agricultural district should not be subject to site plan review, special use permits or non-conforming use requirements.”<sup>5</sup> The AML includes in the definition of Farm Operation the “land and on-farm buildings, equipment, manure processing and handling facilities, and practices” contributing to production of crops, livestock, and other products. N.Y. AG. & MKTS. LAW § 301(11). Meaning,

---

<sup>3</sup> N.Y.S. DEP’T OF AGRIC. & MARKETS, *Guidelines for Review of Local Zoning and Planning Laws* (2021) at 4-5.

<sup>4</sup> N.Y.S. DEP’T OF AGRIC. & MARKETS, *Guidelines for Review of Local Laws Affecting Commercial Horse Boarding Operations and Commercial Equine Operations* (2012) at 2.

<sup>5</sup> N.Y.S. DEP’T OF AGRIC. & MARKETS, *Guidelines for Review of Local Laws Affecting Small Wind Energy Production Facilities and Solar Devices* (2012) at 1; see also Matter of Compelling Compliance with provisions of Agric. And Markets Law § 305-a(1) by Town of Clarence, *Decision and Order* (June 30, 2015) (“the Department ... determined that the farm meets the Department’s standard for AML §305-a protection for wind turbines as either on-farm equipment or an on-farm building”).



if a town is unreasonably restricting placement of on-farm equipment (*i.e.*, solar panels) on a Farm Operation, it is unreasonably restricting a Farm Operation itself, in direct violation of the AML. That is exactly what the Town is attempting to do here.

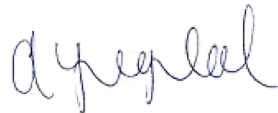
As such, the Town's requirement that this on-farm equipment—the handful of solar panels installed solely to provide electricity for the Farm—obtain a special use permit and site plan approval is patently burdensome and overly restrictive in violation of the AML.

### **Conclusion**

On behalf of the Landowner and Farm, we respectfully request the Department review the Town's actions rescinding the building permit for the solar panels and the requirement the Farm obtain a special use permit and site plan approval for this on-farm equipment. As indicated above, the Farm is a protected Farm Operation under Section 305-a of the AML, which includes its on-farm equipment (*i.e.*, the solar panels), and these requirements by the Town are unreasonably restrictive in violation of the AML and the Department's guidance.

We thank you for your consideration of this letter. If you have any questions or concerns, please do not hesitate to contact me at (518) 433-2416 or [alegland@hodgsonruss.com](mailto:alegland@hodgsonruss.com).

Very truly yours,



Alicia R. Legland

ARL

Enclosures

cc: Dutchess County Farmland Protection Board c/o Matthew Sabellico, Chair, (*via email*)  
Gary Ciferri, Town of Washington Town Supervisor (*via email*)  
Chrissy Briggs, Town of Washington Town Clerk (*via email*)

# Exhibit A



## Agriculture and Markets Law Section 305-a Review Department of Agriculture and Markets

The information requested in this form is for purposes of reviewing a local law/regulation and its impact upon your farm under Agriculture and Markets Law (AML) §305-a. The review will commence upon your completion and return of this form and the receipt of any other information or documentation that the Department may determine necessary to conduct a review. Please complete and return this form and provide any additional information you believe relevant, to the New York State Department of Agriculture and Markets, Division of Land and Water Resources, 10B Airline Drive, Albany, New York 12235.

1. Name Michael Pryor

Address 211 Shunpike/749 Stanford Road Clinton Corners, NY 12514

Telephone No. and Fax No. c/o Hodgson Russ LLP attn: Daniel Spitzer (716-848-1410) or Alicia Legland (518-433-2416)

E-mail address c/o Hodgson Russ LLP attn: Daniel Spitzer (dspitzer@hodgsonruss.com) or Alicia Legland (alegland@hodgsonruss.com)

Farm Website (if applicable) \_\_\_\_\_

County Dutchess Town Washington

2. Name of Farm August Madeline Fields LLC

Number of Acres Owned 390 Number of Acres Rented 0

3. Is the farm located in a State-certified Agricultural District? If Yes, please indicate the Number of the District 21 and provide documentation of the farm's inclusion in the District (e.g., a letter, e-mail or other written confirmation from County Planning Office, County Real Property Tax Office, County Clerk or County Legislature). **See attached, Att. A.**

\*\*\* AML§305-a only applies to farm operations in a State Certified Agricultural District. If the farm is not located in an Agricultural District, the Department will not conduct a review.

4. How is the farm being restricted or regulated by the local government? Describe the specific farm buildings, equipment or practices involved and how they are affected. Please provide as much detail as possible and attach additional sheets as necessary.

**See attached Ltr. from Hodgson Russ LLP.**

**Please be aware that all records, including e-mails, submitted to the Department are subject to the NYS Freedom of Information Law and may be released.**

Revised 12-17-18

5. Has the farm been denied a permit or other required local approval (e.g., building/zoning permit, special use permit or site plan)? \_\_\_\_ YES or \_\_\_\_ NO. If YES, please provide copies of all documents related to the permit/approval [e.g., applications, permits, correspondence between you, the town, planning board and/or zoning board of appeals, meeting minutes, etc.].
6. Does the farm have an existing Site Plan, Special Use Permit or other local approval related to the farm's production, preparation and marketing of crops, livestock or livestock products? \_\_\_\_ YES \_\_\_\_ NO. If YES, please provide copies of the application, plan/permit approval and other correspondence relate to the application/approval. **The farm does not have any site plan, special use permit, or other local approval. The farm received a building permit for the solar panels, which was revoked. See Ltr. from Hodgson Russ LLP.**
7. Has the farm been issued a Notice of Violation (NOV) or other written notification that the farm has violated a local law, rule or regulation? \_\_\_\_ YES or \_\_\_\_ NO. If Yes, please provide copies of the NOV, Ticket or other written notice received by the farm; and related documents/letters.
8. Description of the farm – include the following information and provide as much detail as possible (attach additional sheets as necessary): size of farm; type of enterprise; products; acreage; buildings; years in operation; annual gross income.

**See attached Ltr. from Hodgson Russ LLP.**

---

---

---

---

---

9. Does the farm conduct activities on the property which may not be part of the farm's production, preparation and marketing of its crops, livestock and livestock products? (e.g., processing and marketing of non-farm products, sawmills processing wood which is not from the farm, special events) \_\_\_\_ YES \_\_\_\_ NO. If YES, please describe these activities/land uses in detail and explain if these activities/land uses are the subject of any pending alleged violation of local law. Please provide as much detail as possible and attach additional sheets as necessary.

---

---

---

---

---

10. Does the farm produce crops for alcoholic beverages that are prepared and marketed on the farm? \_\_\_\_ YES \_\_\_\_ NO. If YES, please provide a copy of the farm's NYS Liquor Authority license.

Please also explain how the farm meets the production and beverage sales thresholds in the Department's *Guideline for Farms that Produce, Prepare and Market Crops for Beverages* (i.e., at least 50% of the crops for the beverage must be grown on the farm; and farms that market the beverage on the farm must derive at least 70% of their sales from the beverage). Please provide as much detail as possible and attach additional sheets as necessary.

---

---

---

---

---

**Please be aware that all records, including e-mails, submitted to the Department are subject to the NYS Freedom of Information Law and may be released.**

11. Does the land/farm receive an agricultural assessment? \_\_\_\_\_ If YES, please provide a copy of the property tax bill documenting receipt of an agricultural assessment. If NO, why not? (e.g., start-up, insufficient sales) See attached, Att. B.

---

\*Please complete the AML §305-a Questionnaire if the farm does not qualify for agricultural assessment, or if the Department informs you that it is otherwise needed for its review.

12. Provide a list of other persons or entities (e.g. Building Inspector, Code Enforcement Officer, Town Supervisor, Town Attorney) who may have further information; include title and day-time phone number:

Building Inspector: Jonathan Ialongo (845-677-3419 ext 112 or buildinginspector@washingtontny.org)

Town Supervisor: Gary Ciferri (845-677-3949 ext 105 or supervisor@washingtontny.org)

ZBA Chair: Frank Redl (ZBA Secretary Lisa Agnelli (845-677-3419 ext 116 or zba@washingtontny.org))

---

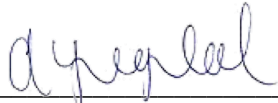
---

---

13. Please provide any additional information that may be useful in conducting the Department's review.

See attached Ltr. from Hodgson Russ LLP.

The information provided by me above and in the attached documents, if any, is truthful and accurate to the best of my knowledge.



Signature

May 23, 2025

Date

\*Department Guidance Documents can be found at: <https://www.agriculture.ny.gov/ap/agservices/ag-restrictive-laws.html>.

**Please be aware that all records, including e-mails, submitted to the Department are subject to the NYS Freedom of Information Law and may be released.**

Revised 12-17-18



## **Agriculture and Markets Law Section 305-a Review Application Checklist**

- *Have you filled out the review form completely? \_\_\_\_\_*
- *Have you provided all information, documents and attachments required? \_\_\_\_\_*
- *Have you provided enough detail for the Department to properly evaluate your request, including: Documentation of the agricultural district status of the land? How your farm qualifies as a farm operation? How your farm is being unreasonably restricted or regulated? \_\_\_\_\_*
- *Have you provided details about the farm's processing and marketing of products not grown or raised by the farm (if applicable)? \_\_\_\_\_*
- *Have you provided details about the farm's production, preparation and marketing of crops for alcoholic beverages (if applicable)? \_\_\_\_\_*

# ATTACHMENT A

Untitled map

https://www.arcgis.com/apps/mapviewer/index.html?layers=5c5b4550123343fe95a20f0afc00f042

Sign In

Get started

You can explore maps, add layers, and more without signing in. To save your work, sign in before creating your map.

[Learn more about Map Viewer](#)

NYS Agricultural Districts

Add

Search result

Add to new sketch Zoom to

211 Shunpike, Clinton Corners, New York, 12514

Open tabs: 1

NYS Agricultural Districts

150 records, 0 selected

	County	District	Creation	Certified	Towns
	Dutchess	21	3/11/1984, 7:00 PM	5/31/2016, 8:00 PM	Ameni
	Dutchess	22	3/11/1984, 7:00 PM	5/31/2016, 8:00 PM	East Fi

NYS Agricultural Districts

Properties

Use the selector above to switch between layers in the map.

Information

Source layer

NYS Agricultural Districts

Feature layer

Duplicate

All properties are stored in source layer

Manage layer properties

Symbology

NYS Agricultural Districts

Appearance

Blending

Normal

Transparency

0%

25% 50% 75%

Esri, NASA, NGA, USGS, FEMA | Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, US...

Powered by Esri

6:15 PM

5/22/2025



# ATTACHMENT B

PAGE 147  
VALUATION DATE-JUL 01, 2024  
TAXABLE STATUS DATE-MAR 01, 2025

\*\*\*\*\*

# Exhibit B

Town of Washington  
**ZONING BOARD OF APPEALS**  
10 Reservoir Drive  
Millbrook, NY 12545  
845-677-3419 ext. 116

**RESOLUTION OVERTURNING BUILDING INSPECTOR DETERMINATION AND  
REVOKING BUILDING PERMIT**

**Arcadia Fields**  
746 Stanford Road  
Millbrook, New York 12545

**Date: February 18, 2025**

**Motion:** Redl  
**Second:** Briggs

WHEREAS, appellants Lisa Biase and Lou Casciano, who own a 9.6-acre parcel at 5515 Route 82, Washington, NY, 12514, appeal the Town of Washington Building Inspector's ("Building Inspector") issuance of a building permit for a ground-mounted solar project (the "Project") to be constructed on property located at 749 Stanford Road, Washington, NY, 12514, Parcel No.135889-6666-00-434999-0000 ("the Property"); and

WHEREAS, appellants make various claims challenging the Project and the issuance of the building permit, including that the Project violates the 110% Rule set forth in Code Section 165-60(E)(1), that the Project violates the screening requirements of Section 165-60(F)(3)(c), that the Project would have a detrimental affect on appellants' property value, and that the Building Inspector made an incorrect determination as to the nonresidential character of the Property; and

WHEREAS, the Town of Washington Zoning Board of Appeals ("Zoning Board of Appeals") passed a motion on January 21, 2025 determining that the appeal is a Type II action under the State Environmental Quality Review Act and is not subject to review under the Act; and

WHEREAS, the Washington Town Code requires that the Zoning Board of Appeals publish notice of a public hearing at least five (5) days prior to the hearing in accordance with New York Town Law Section 267-a; and

WHEREAS, such a duly noticed public hearing was opened on December 17, 2025 at 6:30 p.m. at the Town Hall of the Town of Washington, 10 Reservoir Dr., Millbrook, NY, and continued and finally closed at the January 21, 2025 regular meeting; and

WHEREAS, at the public hearing, the Zoning Board of Appeals heard from the applicant, the appellants, and members of the public, and reviewed and considered all submissions filed with the Board while the public hearing remained open; and

WHEREAS, the Town of Washington Code Section 265-60, added by Local Law No. 1-2018, provides that approval of a ground-mounted solar energy system to be constructed on residential property does not require site plan review (Code Section 165-60(F)(3)(e)) but a solar energy system on nonresidential property requires special permit and site plan review by the Town of Washington Planning Board, ("Planning Board") (Code Section 165-60(F)(4)(e)); and

WHEREAS, under the Code, residential property is defined as "real property that is primarily used for residential purposes and contains a one- or two-family residence" and nonresidential property is defined as "real property that is not considered residential property" per Code Section 165-60(C); and

WHEREAS, the Building Inspector determined that the Property is residential property and therefore issued the building permit for the Project without referral to the Planning Board for special permit and site plan review; and

WHEREAS, the Property is located in the RL-5 (low-density residential) zone, is classified as a special farm (180) use, and receives significant Agricultural and Forest Land tax exemptions; and

WHEREAS, the record demonstrates that the Property owner lives in one residence, rents out two other residences situated on the Property to tenants, and also engages a horse-boarding operation and tree farm operation on the Property; and

WHEREAS, applicant concedes that the electricity generated by the solar panels will support the commercial operations just as it will serve the residences on the Property.

NOW, THEREFORE, the Zoning Board of Appeals makes the following determinations:

BE IT RESOLVED, that the Property is nonresidential property under the Code because it is not "primarily" used for residential purposes and, therefore, the Project requires Planning Board review for issuance of a special permit and site plan approval; and

BE IT FURTHER RESOLVED, that the Building Inspector's determination is overturned insofar as the Property should be characterized as nonresidential and the building permit is vacated; and

BE IT FURTHER RESOLVED, that the Building Inspector shall refer the matter to the Planning Board for appropriate review and approvals; and

BE IT FURTHER RESOLVED, that, because the nonresidential characterization of the Property is dispositive in this matter, the Zoning Board of Appeals declines to address appellants' other claims, which may be addressed by the Planning Board.

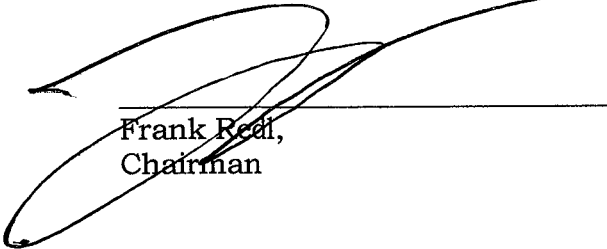
The foregoing Resolution was duly put to a vote which resulted as follows:

	YEA	NAY
Chairman Redl	<u>  /  </u>	<u>          </u>
Member Briggs	<u>  /  </u>	<u>          </u>
Member Kollmar	<u>  /  </u>	<u>          </u>
Member Kunkle	<u>  /  </u>	<u>          </u>
Member Rolland	<u>  /  </u>	<u>          </u>
Alternate Frederick	<u>          </u>	<u>          </u>

Dated: Millbrook, New York  
February 18, 2025

**CERTIFICATE**

I, Frank Redl, Chair of the Zoning Board of Appeals of the Town of LaGrange, do hereby certify that the foregoing is a true copy of a decision of the Zoning Board of Appeals made at a meeting thereof duly called and held on the \_\_ day of \_\_, 2024.

  
\_\_\_\_\_  
Frank Redl,  
Chairman

FILED THIS DATE \_\_\_\_\_ IN THE OFFICE OF THE TOWN CLERK

# Exhibit C





**TOWN OF WASHINGTON  
BUILDING AND ZONING DEPARTMENT**

**P.O. Box 667, 10 Reservoir Drive  
Millbrook, NY 12545**

**Phone (845) 677-3419 Fax (845) 677-1195**

**Email: [buildinginspector@washingtonny.org](mailto:buildinginspector@washingtonny.org)**

**[www.washingtonny.org](http://www.washingtonny.org) Cell: (845) 219-9724**

5/7/2025

RE: 749 Stanford Road; 6666-00-727971

To whom it may concern;

This letter is in regards to the decision of the Town of Washington Zoning Board of Appeal decision to void Building Permit 3456 for the installation of a ground mounted solar array. Per that decision, the Building Permit is voided and the solar construction needs to be removed from the property. Should you decide to install a new solar array, an application must be made to the Town of Washington Planning Board for a Special Permit to allow the installation. The Town requires that since the Building Permit is voided, the solar panels are considered an unlawful structure and will need to be taken down from its current installation. The Town will also verify that this has happened to be in compliance with the resolution passed by the Zoning Board of Appeals.

Sincerely;



Jonathan Jalongo

Building Inspector and Zoning Administrator

# Exhibit C



TOWN OF WASHINGTON  
DUTCHESS COUNTY, NEW YORK  
FIRE PREVENTION AND BUILDING CODE  
LOCAL LAW NO.5 OF THE YEAR OF 2007

## COMPLIANCE ORDER TO REMEDY

YOU WILL PLEASE TAKE NOTICE that there exists a violation of \_\_\_\_\_  
The resolution dated February 18, 2025

Of the Town of Washington Zoning Board of Appeals

At the following location: 749 Stanford Road Millbrook, NY 12545

Tax Map Number: 6666-00-727971

In that: (state character of the violation) By order of the resolution adopted by the Town of Washington ZBA, the Building Permit for the solar installation was revoked. As such, the solar installation is to be removed and any subsequent solar installation will be subject to a Special Permit issued by the Town of Washington Planning Board. Homeowner needs to remove the solar installation that is currently on the property

The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by 6/23/2025, which is thirty (30) days after the date of this Order to Remedy.

Failure to comply with the law and remedy the conditions mentioned above within the time stated may result in further actions and proceedings as necessary to compel compliance including the imposition of a Civil Penalty of not more than \$200 per day.

Date: 5/23/2025

Code Enforcement Officer: \_\_\_\_\_

Contact: (845) 677-3419 ext 112 buildinginspector@washingtontny.org

Town of Washington  
Building Department  
P.O. Box 667  
Millbrook, NY 12545

06 22E4 2527 0225 0720 6856



FIRST-CLASS



US POSTAGE

ZIP 12545 \$ 009.64  
02 7H  
0001302805 MAY 23 2025

LN  
5/24

AUGUST MADELINE FIELDS, LLC  
211 SHUOPIKE  
CLINTON CORNERS, NY 12514

Retail



12514

RDC 99

U.  
FC  
MILL  
MAY  
\$0  
\$232