

Bucks County Agricultural Land Preservation Program

Rules and Guidelines

(March 2005)

Table of Contents

	Page
INTRODUCTION	1
STATEMENT OF PURPOSE	3
ELIGIBILITY FOR EASEMENT PURCHASE PROGRAM	5
PROCEDURES	10
I. Application to the Program	10
II. Evaluation of Application	12
III. Appraisal of Easements	12
IV. Offer of Purchase by County Board	13
- Applicants Response to Board’s Offer	13
- Applicants Independent Appraiser	14
- County Board Action	14
V. Acceptance of Offer	15
VI. Review of Application by the State Farm Board	15
- Summary Report	15
- Other Required Documents	16
SETTLEMENT AND THE AGRICULTURAL EASEMENT DEED	17
RESPONSIBILITY OF OWNER	18
USE OF SUPPLEMENTAL EASEMENTS BY MUNICIPALITIES	18
RURAL ENTERPRISES	20
SUBDIVISION GUIDELINES	22
INSPECTION AND ENFORCEMENT POLICY	27
PUBLIC INFORMATION	30
APPENDIX A - Farmland Ranking System	30
APPENDIX B - Board Authorization	36
APPENDIX C - Board Members	37
APPENDIX D - Bylaws.....	38
APPENDIX E - Planning Map	

INTRODUCTION

Loss of Farmland

Bucks County has lost over 71 percent of its agricultural land during the past 50 years. Most of the residential and nonresidential growth has occurred on prime farmland. To emphasize this decline, in 1950, there were 260,100 acres in agricultural production in Bucks County. These acres comprised 67 percent of Bucks County's total land base. According to the 2002 Agricultural Census, the amount of farmland in Bucks County has declined to 76,831 acres. Agriculture as a land use now comprises only 20 percent of Bucks County's total land base.

Agriculture Today in Bucks

Despite the dramatic loss of farmland, Bucks County remains a highly productive agricultural county. Bucks County still ranks 12th out of 67 counties in Pennsylvania in agricultural production. Market value of farm products/output was \$61 million in 2002. There are 219 active full-time farms, with an average farm size of 84 acres. These statistics are testament to our resilient farming community and are indicative of a very viable economic sector.

Many of our traditional farms (crop and dairy) have made changes needed to adapt to the ever-increasing urban fringe. The diversification of agricultural crops including the development of vegetable and specialty crops and pick-your-own produce operations has helped expand and strengthen the agricultural industry. By far the most dramatic increase has been in horticultural crop production, which has registered a 47 percent increase in the last five years. Our farmers are an extremely industrious segment of Bucks County. But they also need help from the county, state, and Federal government in preserving agriculture and their way of life.

In an effort to stem the conversion of valuable agricultural land, Pennsylvania began to create a program designed to purchase agricultural conservation easements on selected farms throughout the commonwealth in 1989. Originally funded by a \$100 million bond issue specifically aimed at funding farmland preservation and passed overwhelmingly by Pennsylvania voters, in 1987, the program is currently funded statewide by a 2-cent tax on every pack of cigarettes sold within Pennsylvania. This cigarette tax generates an average of \$23 million dollars annually to be used for farmland preservation. Legislative support is now included in the Growing Greener legislation (Act 68 of 1999). The Growing Greener initiative provided a total of \$100 million in "supplemental" farmland preservation funding in July 1999.

The creation of Bucks County Agricultural Land Preservation Program in 1989 signified the county's full-scale commitment to Pennsylvania's farmland preservation program. Since 1945, Bucks County has lost 77 percent of its productive farms and farmland. Since 1989, the county has participated in an agricultural preservation program designed to protect viable agricultural lands by acquiring agricultural conservation easements, which prevent the development or improvement of the land for any purpose other than agricultural production.

Farmland owners in agricultural security areas meeting state-imposed crop production and soil requirements may apply to sell an agricultural conservation easement on their land. When the county and the state purchase an agricultural conservation easement, they are actually purchasing

the development rights on the land. The landowner retains ownership of the land, including the right to sell the land, and the right to farm the land. The farm, however, must forever remain in agricultural production.

The Bucks County Agricultural Land Preservation Program compensates farmers for the difference between the development value of their land (Fair Market Value) and the agricultural value of their land. Easement values are determined by a qualified real-estate appraisal. Conservation easements willfully sold by a landowner at an amount less than the appraised value (bargain sale) are eligible to receive a federal income tax charitable deduction. Easement values vary throughout the county, ranging from \$3,500 to \$35,000 per acre. The average easement value for all the land preserved thus far is \$7,748 per acre. The county has a maximum of \$10,000 per acre for an easement. Many municipalities are making up the difference between what the county offers and full easement value with their own funds.

Goals and Objectives

The primary goal of the Bucks County Agricultural Land Preservation Board is to preserve 10,000 acres of farmland by the year 2007. The Bucks County Agricultural Land Preservation Program seeks to preserve the family farm in addition to preserving prime agricultural land. Other goals of the program include keeping farmland affordable for future generations, providing working capital to help farmers achieve financial stability, and to help farmers with estate planning. Many farmers use their easement proceeds to pay off debt, expand their operation by purchasing additional equipment or additional land, or for investment and retirement purposes.

The Bucks County Agricultural Land Preservation Program also seeks to preserve and protect Bucks County's environment. Farmland provides a vital source of groundwater, wildlife habitat, and scenic open space. Pastoral vistas provide a therapeutic balance to urban, densely populated areas. Bucks County farms also supply fresh fruit and vegetables for an increasing population.

The Bucks County Agricultural Land Preservation Program incorporates a strict point-based farmland evaluation system when selecting farms for easement purchase. This system places special emphasis on soil quality, ownership involvement in farming activities, and land stewardship. Other selection criteria include the long-term economic viability of the farm, location factors, and environmental qualities of the farmland tract. The farmland evaluation system has been designed to award more points to those farms less threatened by development pressure (see Appendix A).

Purpose

It is the purpose of this program to protect and promote continued productive agricultural use on viable agricultural lands by acquiring agricultural conservation easements "in perpetuity" which prevent the development or improvement of the land for any purpose other than agricultural production and allow related agricultural activities.

Further, it is the purpose of this program to:

- Encourage landowner to make a long-term commitment to agriculture by offering them financial incentives and security of land use;

- Protect normal farming operations in agricultural security areas from incompatible nonfarmland uses that may render farming impracticable;
- Protect farming operations from complaints of public nuisance against normal farming operations;
- Ensure conservation of viable agricultural lands in order to protect the agricultural lands in order to protect the agricultural economy of this commonwealth;
- Provide compensation to landowner in exchange for their relinquishment of the right to develop their private property; and
- Maximize agricultural easement purchase funds and protect the investment of taxpayers in agricultural conservation easements.
- Execute all agreements of other documents necessary to affect the purchase of such agricultural conservation easements in the name of Bucks County and the Commonwealth of Pennsylvania.
- Do all other lawful acts permitted by these bylaws as they may be amended from time to time.

These program guidelines represent policies and procedures to be used in accomplishing these tasks, enabled by Act 442, the Conservation and Land Development Act of 1968 and by Act 43, the Agricultural Area Security Law of 1981, as amended.

ELIGIBILITY FOR EASEMENT PURCHASE PROGRAM

Bucks County through its Agricultural Land Preservation (ALP) Board, intends to acquire agricultural conservation easements. Conservation easements may be acquired with county funds, or state funds. The county is responsible for monitoring and enforcement of all easements purchased with public funds.

Conservation easements will be accepted only through voluntary sale within existing Agricultural Security Areas. Those landowners who are interested in applying for conservation easement sales on qualified land will be ranked and prioritized based on three factor categories: viability of the farming operations, locational and site factors, and quality of life. An appraisal or appraisals of a conservation easements value will be the determinant of the maximum compensable easement value.

The purchase price paid for an agricultural conservation easement in perpetuity will be equal to, or less than the easement value, as determined by the appraisal process. Payment to the prospective landowner may be made in a lump sum, or as a like-kind exchange or installments. Conservation easements willfully sold by a landowner at an amount less than the appraised value (bargain sale) are eligible to receive a federal income tax charitable deduction. The county will also offer the option of long-term installment payments extending beyond a period of five years.

The objective of this method of farmland preservation approach by purchasing conservation easements is to ensure the continued existence, economic health and protection of farmland in Bucks County, while at the same time providing just and attractive compensation.

EASEMENT DESCRIPTION

A conservation easement secured through acquisition is a legally binding document which is filed with the recorder of deeds, restricting its use to agriculture and directly related uses, for which compensation is paid. Restrictions are binding upon the owner and future owners, carrying with the land. The landowner retains the right to sell the land.

STATE MINIMUM CRITERIA

Any farms applying for preservation must first meet certain eligibility criteria before continuing the process. Farms that may receive funding from the Commonwealth must meet the criteria as required by section 138e.16 of the State regulations and described in the first section below. Farms not meeting these minimum criteria may still be eligible if they meet the criteria in the second section below. Any easement qualifying for Commonwealth funding may also be purchased using County-only or County & Municipal funding.

Before a site is ranked under the numerical ranking system, it must first meet the following State minimum criteria as required by Section 138e.16 of the state regulations:

The farmland tract shall:

(1) Be one or more of the following:

- (i) Located in agricultural security area comprised of at least 500 acres.
- (ii) Bisected by the dividing line between two local government units, having the majority of its viable agricultural land within an agricultural security area of 500 acres or more and the remainder in another local government unit outside of an agricultural security area.
- (iii) Bisected by the dividing line between the purchasing county and an adjoining county, having the land located in the purchasing county within an agricultural security area of 500 acres or more and the remainder in another county outside of an agricultural security area, and with respect to which one of the following applies:
 - (A) A mansion house is on the tract located within the purchasing county.
 - (B) When the mansion house on the tract is bisected by the dividing line between the two counties, the landowner has chosen the purchasing county as the situs of assessment for tax purposes.

(C) When there is no mansion house on the farmland tract, the majority of the tract's viable agricultural land is located within the purchasing county.

(2) Be one or more of the following:

- (i) Contain at least 50% of soils which are available for agricultural production and are of Capability Classes I through IV, as defined by the USDA-NRCS.
- (ii) Contain the greater of 50% or 10 acres of harvested cropland, pasture, or grazing land.
- (iii) Be contiguous acreage of at least 50 acres in size unless the tract is at least 10 acres in size and is either utilized for a crop unique to the area or is contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization" as that term is defined in Section 170h.3 of the Internal Revenue Code. Contiguous acreage is defined as all portion of one operational unit as described in the deed, or deeds, whether or not the portions are divided by streams, public roads, bridges, and whether or not described as multiple tax parcels, tracts, purports, or other property identifiers. It includes supportive lands such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds, and streams.

Farms producing **crops unique to the area for commercial purposes** will be considered on a case-by-case basis for easement purchase. Crops that may qualify include the following:

1. Grapes – table or wine grapes.
2. Tobacco.
3. Spelz – a small grain grown as an alternative to federally regulated feed grains.
4. Orchard Crops – commercial agricultural enterprise.
5. Mushrooms – commercial agricultural enterprise.
6. Tomatoes – commercially grown for fresh marketing or processing.
7. Cantaloupes – commercial grown for fresh market.
8. Snap beans – commercially grown for processing.
9. Pumpkins – commercially grown for fresh market.
10. Strawberries – commercially grown for fresh market or processing.
11. Potatoes – commercially grown for fresh market or processing.
12. Sweet corn – commercially grown for fresh market or processing.
13. Christmas trees – grown as a rotation crop with a management plan for cultivation, harvesting and replacement of Christmas trees.

14. Floriculture crops – grown as a commercial agricultural enterprise.
15. Maple syrup – commercial agricultural enterprise.
16. Sod, nursery stock, ornamental trees and shrub-grown for commercial agricultural enterprise with the Deed of Easement restriction that removal of excess soil is **prohibited**.
17. Crown vetch – plugs or seed grown as a commercial agricultural enterprise.

COUNTY MINIMUM CRITERIA

At the discretion of the Farm Board, an easement may be purchased in the following circumstances, not using Commonwealth funding. County-only funding may be used, or a combination of County and Municipal funding. When the municipality contributes, this is known as a multiple-funded easement purchase.

The farmland tract:

- A. Shall be located in an ASA comprised of at least 500 acres.
- B. May contain less than 50% of soils, which are available for agricultural production and may contain less than 50% of soils in Capability Classes I through IV, as defined by the USDA-NRCS.
- C. Shall contain the greater of 50% or 10 acres of harvested cropland, pastureland, or grazing land except as described below in Section D.
- D. May contain less than 50 contiguous acres of land but must contain at least 10 acres as required to join an ASA, except as noted below.
- E. Comply with the amendments (Act 14 of 2001) to the Agricultural Area Security Law (Act 43), which prescribes the process for purchasing Agricultural Conservation Easements from landowners whose parcel boundaries cross local government and county boundaries.

Maximum Purchase Price-The purchase price offered for the purchase of an easement in perpetuity under Chapter 138e.66(b) may not exceed, but may be less than, the value of the easement. Regardless of the easement value, the overall (state and county) purchase price for an agricultural conservation in perpetuity may not exceed **\$12,000** per acre. However, local municipalities may participate in the easement purchase as a joint grantee and pay any portion or full difference between the \$12,000 per acre and the full “easement value” determined by the Appraisal Report. These types of easements are referred to as “multi-governmental” easements where the State, County, and local municipality join together as the grantees of the easement in joint ownership

G. Local Government Unit Participation

Any local government unit that has created an agricultural security area may participate along with an eligible county and the Commonwealth in the preservation of farmland through the purchase of agricultural conservation easements.

1. The local government unit, in conjunction with a county board, may participate with the State board in the purchase of agricultural conservation easements.
2. The local government unit shall recommend to the county board the purchase of agricultural conservation easements by the eligible county and the local government unit as joint ownership.
3. The local government unit shall recommend to the county board the purchase of agricultural conservation easements by the local government unit and the Commonwealth as joint ownership.
4. The local government unit may purchase an agricultural conservation easement, provided that all of the following apply:
 - (i) The agricultural conservation easement is located within an agricultural security area of at least 500 acres or the easement purchased is a joint purchase with either a county or both a county and the Commonwealth pursuant to the criteria set forth for the purchase of agricultural conservation easement extending into an adjoining county.
 - (ii) The deed of easement must be the same used by the state and the county.
 - (iii) The local governments unit shall participate with the county board in complying with paragraph (5) for recording any agricultural conservation easement purchased by the local government unit.
5. The county board shall be responsible to record agricultural conservation easements where a local government unit is a party to the purchase of the easement. The easement shall be recorded by the county wherein the agricultural conservation easements are located. The county board shall submit to the State Board a certified copy of the agricultural conservation easement within 30 days after recording.
6. A county and municipality can participate in a “bargain sale” if the farm is on the application list.
 - a. Floating lots are not permitted
 - b. The Bucks County Agricultural Land Preservation Board will pay a maximum of \$1,500 per acre for bargain sales that have met the above criteria.

PROCEDURES FOR PURCHASE OF EASEMENT

I. APPLICATION TO THE PROGRAM

Owners of land within agricultural security areas may voluntarily consider applying to sell a conservation easement by applying to the County Board. This procedure will take place in accordance Section 138e.61 and 138.62 of the State Regulations and in accordance with the model format set forth in the state guidebook, including any revisions thereto. A separate application shall be required for each tract offered for easement purchase. The application shall consist of a completed application form, locational maps, a soils report, a crop and/or livestock report, and a copy of a soil conservation plan meeting NRCS standards.

Deadline: The deadline for submitting applications is normally January 15 of each year.

The following information will be provided when submitting an application: Application form, location maps, soils report, soil conservation plan, crop report and livestock report. You may request assistance from the Farmland Preservation Office (215-345-3409) in completing the application form. An application form can be found in Appendix

After application, and before the survey, a maximum of one lot may be excluded, at the owners discretion, from the easement that is no greater in acreage than the current minimum lot size for the applicable zoning district usually be located around the current house and buildings. This is in addition to the permitted construction of one additional residential structure to be limited to providing housing for persons employed in farming the subject land on a part-time or full-time basis.

The application cannot be part of a current or future subdivision of the entire property that would result in any part of the subdivision being less than 50 acres.

Application Form

The County Board has developed and made available an application form that requires the following information:

- A. The name, address, telephone number, and signature of the owner(s) of the farmland tract.
- B. The county, municipality, and agricultural security area in which the farmland tract is located.
- C. The total acreage of the farm, and the number of acres in the farmland tract proposed for easement purchase.
- D. The street location of the farm.
- E. A deed reference book and page.
- F. County tax map records, including tax parcel number, or account number of each parcel.
- G. The name, address, and telephone number of the person to be contacted to view the farmland tract.

- H. The names of any mortgage or lien holders, and the amounts of the liens or mortgages.
- I. Information regarding any current agreements to sell the property.
- J. The number of years the family has farmed the tract.
- K. A list of buildings existing on the property.
- L. Date of Conservation plan
- M. Date of nutrient management plan

Soil Conservation Plan

Every farmland preservation applicant must submit a current Soil Conservation Plan meeting NRCS standards. A “Resources Management System” (RMS) plan is required for the farmland preservation program. This type of plan addresses all areas of the farm including streambanks, woodlands, and the homestead, as well as cropland and pasture.

Locational Maps

The applicant shall be required to provide the following locational maps with the application:

- A. A United States Geological Survey topographical map showing the location of the farmland tract.
- B. A tax map of the farmland tract with map reference and tax parcel number clearly indicated.

Staff of the Farmland Preservation Office can provide materials to the landowner upon request.

Soil Report

The applicant is required to fill in the top row of the soils report or draw on a map of the property, showing how much land is in cropland, how much in pasture, and how much in “other” (buildings, creeks, woodlands, etc.). The applicant is requested to also provide the rest of the soils report and soils map for the farmland tract proposed for easement purchase and a table showing the capability classes as follows: Note: Completing the first five rows is optional. However, applicant must fill in total in the top row.

	Acres of Cropland	Acres of Pasture	Acres of Other Land	
TOTAL				
Class I.				
Class II.				
Class II.I				
Class IV.				
Other				

The soils map may color code soil types as follows:

Class I = Green

Class III = Red

Class II = Yellow

Class IV = Blue

Wetlands = Cross Hatch (or show on a separate map)

Crop Report

The applicant shall provide crop production information for the farmland tract for the most recent crop year that that yields are available:

Commodity	Acres Grown	Yield/Acre	Income in Dollars
A.			
B.			
C.			
D.			

Livestock Report

The applicant shall provide a livestock report for the farmland tract for the most recent calendar year that number are available:

Livestock	Average Number	Product Sold	Amount Sold	Income \$\$
A.				
B.				
C.				
D.				

II. EVALUATION OF APPLICATION

The County Board shall evaluate all timely applications that meet the minimum criteria and rank them according to the county numerical ranking system. The evaluation shall comply with Section 914.1(d)(1)[I-iv] of the Act regarding soil quality, likelihood of conversion, proximity to other eased lands, and land stewardship. The County Board shall then determine whether to appraise the farmland tract.

Appendix A contains more information on the ranking system.

III. APPRAISAL OF EASEMENTS

Those farms that score well in the numerical ranking system will be appraised. The County will pay for the first appraisal on these selected farms. The completion of an appraisal report does not guarantee that an easement will be purchased.

The appraiser chosen shall be a State Certified General Real Estate Appraiser who is qualified to appraise a property for easement purchase. An Appraiser shall be selected by the County on the basis of experience, expertise, and professional designation.

The appraisal reports shall estimate both the market value and the farmland value of the farmland tract, and shall be based primarily on an analysis of comparable sales. The value of a building or other improvement on the farmland tract may not be considered in determining the easement value. The value of the building or other improvement shall appear separately in the appraisal report.

All appraisals must be done in accordance with the standards set forth in Act 43. Appraiser should consult the Appraiser's Guide provide by the staff of the State Bureau of Farmland Preservation.

IV. OFFER OF PURCHASE BY COUNTY BOARD

After the appraisal reports are completed, the County Board may elect to make offers to place conservation easements on some of the appraised farms. Municipal funding may also be used. The purchase price of an easement shall not exceed, but may be less than, the easement value. In determining whether to offer to purchase an easement, the County Board shall consider the following:

- A. Evaluation according to the numerical ranking system.
- B. Consistency with county map of priority agricultural areas.
- C. Cost relative to total allocations and appropriations.
- D. Proximity to other lands subject to easements.

The County Board shall decide whether the purchase will be made with county funds, state funds, or a combination of county and state funding. Municipal funding may also be used. If the County Board determines to offer to purchase an easement on the farmland tract, the County Board, or a representative of the County Board, shall meet with the applicant to review the county appraisal report. An offer to purchase an easement shall be submitted to the applicant in writing and be accompanied by the county appraisal report. This offer is known as the "original offer." The offer letter will indicate a total offer and the corresponding value per acre. If a survey reveals acreage more or less than originally indicated, the total offer changes, but the price per acre does not.

Applicant's Response to Board's Offer

Within 30 days of receipt of the written offer from the County Board an applicant may do one of the following:

- A. Accept the offer in which case the County Board and the applicant shall enter into an agreement of sale. When state funds are being used, the agreement of sale shall be in a form provided by the State board, and shall be conditioned upon the approval of the State Board. All contracts shall be subject to the ability of the applicant to provide good title to the premises, free of any encumbrances such as liens, mortgages, options, rights of other in surface mineable coal, land use restrictions, adverse/ ownership interest and other encumbrances that would adversely impact the County and Commonwealth's interest in the

farmland tract. A mortgage subordination release or letter from the mortgagee, lienholder, or owner of rights in surface mineable coal, approving the purchase of the conservation easement may be required.

- B. Reject the offer and advise the county Board that the application is withdrawn.
- C. Advise the county Board that the applicant is retaining, at applicant's expense, an independent licensed real estate appraiser to determine the easement value. The appraiser shall be a State Certified General Real Estate Appraiser, and the appraisal shall be completed in accordance with Subchapter D of the State Regulations. The appraisal shall be submitted to the County Board within 120 days of receipt of the County Board's offer to purchase. Upon completion, three copies of the applicant's appraisal shall be submitted to the County Board. The applicant's decision to obtain an independent appraisal under this paragraph shall not constitute a rejection of the County Board's offer. The County Board's offer shall remain open unless increased by the County Board or rejected by the applicant.

Applicant's Independent Appraiser

If the applicant retains and independent appraiser, the easement value shall be the difference between the agricultural value and the nonagricultural value, determined as follows:

- A. The agricultural value shall equal the sum of:
 - 1. The farmland value determined by the applicant's appraiser; and
 - 2. One-half of the difference between the farmland value determined by the County Board's appraiser and the farmland value determined by the applicant's appraiser, if the farmland value determined by the County Board's appraiser exceeds the farmland value determined by the applicant's appraiser.
- B. The nonagricultural value shall equal the sum of:
 - 1. The market value determined by the County Board's appraiser; and
 - 2. One-half of the difference between the market value determined by the applicant's appraiser and the market value determined by the County Board's appraiser, if the market value determined by the applicant's appraiser exceed the market value determined by the County Board's appraiser.

County Board Action after Applicant Appraisal Complete

Within 30 days of receipt of the applicant's appraisal report the County Board shall:

- A. Submit a written offer to purchase in an amount in excess of the original offer; or
- B. Notify the applicant in writing that the original offer remains open and will not be modified.

The applicant shall, within 15 days of receipt of the County Board's written offer under Paragraph (A) or (B) of "County Board Action" above, notify the County Board in writing that the applicant either:

- A. Accepts or rejects the amount in excess of the original offer; or

B. Accepts or rejects the original offer.

The failure of the applicant to notify the County Board within the 15-day period and in the manner preserved shall constitute a rejection of the County Board's offer.

V. ACCEPTANCE OF OFFER

If either offer is accepted, the County Board and the applicant shall enter into an agreement of sale containing the same requirements and subject to the same conditions as set forth in "Applicant's Response to Board's Offer on Page ___.

If the landowner accepts an offer lower than the appraised value, this is know as a "bargain sale," and may offer tax advantages.

Payments for the conservation easement can be received in a lump sum or installments for up to five years, at an interest rate determined by the Bucks County Agricultural Land Preservation Board. The Board shall determine the method of payment, lump sum or installments up to five years, after considering the preference of the owner. Or another option to consider is the "like-kind exchange" (Internal Revenue Code 1031), which permits the proceeds from the easement sale to be used to buy another property and defer capital gains.

The County Board advises all landowners accepting offers to consult financial advisors regarding tax and estate planning issues.

Landowners should note that payment for a conservation easement is taxable as a capital gain and any interest on installments is taxed as income.

VI. REVIEW OF APPLICATION BY THE STATE FARM BOARD

When the easement purchase will use state funds, the County Board recommends the easement purchase to the State Board. According to Section 138e.91 of the State Regulations, the County Board's application to the State Board must include a summary report and various other documents.

Following its review of the County Board's recommendation, the State Board will approve or deny the easement purchase within 60 days of receipt of the completed recommendation.

Summary Report

The County Board staff shall prepare a report for the State Board, and submit 25 copies of a farm summary report. The summary report must be prepared in accordance with Section 138e.70 of the State Regulations, and include:

A. A narrative, which includes:

1. A description of the farm, including the name, location, number of acres, and type of farm.

2. Discussion of quality of the farmland tract, including soils classification. Mention of the manner in which preservation will contribute to the agricultural productivity of the County.
 3. Projection of the likelihood of conversion to other uses if the easement is not purchased. This should include discussion of the nature and scope of development pressure in the municipality or area.
 4. Description of the nature and scope of conservation practices and best land management practices on the farm.
 5. Discussion of the purchase price, summarizing the appraisals and including mention of the agricultural and nonagricultural value of the farm and negotiations for purchase.
 6. Certification by the County Board that the information presented to the State Board is true and correct.
- B. A legible United State Geological Survey (USGS) topographic map showing the location and boundaries of the subject property, the location and boundaries of neighboring easements, and any exclusion withheld from the subject property.
- A. A soils report (Form C – provided by the Department of Agriculture).
- B. A list of soils on the subject property including their mapping unit names, symbols, and Land Capability Classes.
- C. A legible, uncolored, soil map of the subject property.
- D. A tax map showing the subject property location and boundaries, any exclusion withheld from the subject property, any utility rights-of-way, and any access road rights-of-way.
- E. A summary table showing the individual ranking scores by category for applications selected for county appraisal, including an indication of the easement purchase status of higher-ranking applicants.
- F. A copy of “Exhibit B” the Statement of Costs, from the Agreement of Sale, modified to include interest, total acres, and per acre easement cost.

Other Required Documents

In addition, the County must submit the following documents:

- A. The appraisal report or reports.
- B. The signed agreement of sale, including the following exhibits:
 1. Proposed legal description.
 2. Statement of costs prepared in accordance with Section 138e.69 of the State Regulations.
 3. Proposed deed of agricultural conservation easement.
 4. Contractor integrity clause.
 5. Nondiscrimination/ harassment clause.

- C. The title insurance report or commitment. (The cost of such title insurance shall be a cost incident to the easement purchase and payable or reimbursable from the County's allocation under the Act.)
- D. A letter certifying that all adjoining landowner were provided with notice and opportunity to be heard in a manner consistent with administrative agency law with respect to the proposed easement purchase, including one copy of the notification letter and a list of all adjoining landowner.
- A. A completed and signed IRS Form W-9, "Request for Taxpayer Identification Number and Certification" for individual grantors.
- B. A letter from the grantors stating the percent of ownership of each grantor for the purpose of issuing IRS Form 1099.

In accordance with Section 138e.70 of the State Regulations, the County may also be required to supply:

- A. A mortgage subordination, release, or letter from the mortgagee, lienholder, or owner of rights in surface minable coal, approving the purchase of the conservation easement. Clear title is required in order to go to settlement. If there is a mortgage on the property, the owner has the option of paying it off or asking the lender to subordinate the mortgage to the agricultural easement. With subordination, the mortgage would continue as before, but the lender agrees that the agricultural easement will always be on the land, even in the event of foreclosure.
- B. A copy of the application form.
- C. An evaluation of ranking worksheet.
- D. Other relevant documents and information.
- E. Survey or plot plan of property under easement. See detail in Section VII (B) below.

VII. SETTLEMENT AND THE AGRICULTURAL EASEMENT DEED

- A. Upon approval of the purchase a real estate settlement will be held. At settlement the landowners will sign the agricultural easement deed. The deed shall include the provisions of Section 138e.241 of the State Regulation. .
- B. Grantees shall be those entities, which provided funding, in the proportion that they provided the funding, as defined in the Act.
- C. When state funds are being used, the County shall submit a copy of the deed to the State Board for approval prior to execution and delivery.
- D. For purchases made entirely with County funds, the County shall be the sole grantee.
- E. In the event that one application consists of more than one tax parcel, those parcels must be consolidated under a Deed of Consolidation, if legally feasible, as determined by the Bucks County Agricultural Land Preservation Board. The Deed of Consolidation will be recorded

at or prior to settlement on the agricultural easement. Fees for preparing the Deed of Consolidation will be paid by the county, provided the easement goes to settlement.

RESPONSIBILITY OF OWNER

Once the easement is in place, it will be the responsibility of the owner of the farmland tract to comply with the requirements of Chapter 138e 221-227 of the State Regulations regarding permitted and required acts including maintaining a soil conservation plan, the construction of buildings, and part-time or off-season activities listed on Page __. Activities listed on page __ are permitted, but are not being considered the primary farming activity on the land.

A. Subdivision

Subdivision of easement farms will not be permitted unless the subdivision meets the criteria outlined in Appendix ____.

When a landowner wishes to subdivide a farm property, which is under agricultural conservation easement, the County Farm Board must first determine whether the land will remain economically viable for agriculture after subdivision.

B. Change of Ownership

If the eased farm is sold, conveyed, or transferred to another person:

- A. The deed conveying an interest in the restricted land shall set forth the language of the easement restriction, items 1-13, verbatim.
- B. Within 30 days of a change in ownership of the restricted land, the prior owner shall notify the County Board and the State Department of Agriculture of the name and address of the new owner, the price per acre or portion thereof received for the eased land, and the volume and page in which the transfer has been recorded by the County Recorder of Deeds.

USE OF SUPPLEMENTAL EASEMENTS BY MUNICIPALITIES

Background

The Bucks County Agricultural Land Preservation Program is proud to be the leader in Pennsylvania and the nation for cooperating with townships and land trusts to purchase agricultural conservation easements with joint ownership. The mutual benefits are readily apparent. These joint purchases can maximize limited funds, allowing more farmland to be preserved. The ability to do joint purchases was the result of an amendment in 1995 to Act 43, to allow for the state, county and municipality to be Grantees on the same Deed of Agricultural Conservation Easement.

With increasing frequency in joint easement purchases, however, there are situations where the municipality feels that the state/county easement does not adequately address the protection of resources that are deemed of significant importance to the township. These resources include farmland but also riparian buffers, wetlands, steep slopes, viewsheds, and critical habitat. And

not insignificant is the fact that municipalities are contributing more and more a higher percentage of the funds used to purchase the easement, resulting in their justification for supplemental easements. The result has been language found in supplemental easements that protects these resources while at the same time restricting normal farming operations. Such restrictions include, but not limited to, prohibiting logging, intensive farming operations, which may include dairy and beef operations, and prohibition of farming activities within a prescribed “buffer” area on the farm. Of course, supplemental easement language varies and is site specific.

Issue

At issue is the increasing use by municipalities and private land trust organizations of supplemental or follow-up (easements/deed restrictions) in addition and beyond the standard state approved easements that are normally used by the Bucks County Agricultural Land Preservation Board when preserving farms in Bucks County. It would seem that the enabling legislation that governs the state farmland preservation program, Act 43, does not specifically prohibit the placement of supplemental easements on farms preserved by the state/county if they do not inhibit normal farming operations. However, these supplemental easements have in the past contained some language that in the opinion of the Bucks County Agricultural Land Preservation Board, would restrict normal farming operations allowed for under the standard state approved easement document. Therefore, the Bucks County Agricultural Land Preservation Board has developed a set of guidelines to be followed when the situation arises that entails a joint easement purchase with the municipality.

In order to avoid potential conflicts and clarify circumstances when state/county/municipal easements and when supplemental easements are to be used, the Bucks County Agricultural Land Preservation Board proposes the following set of guidelines and procedures, to take effect February 6, 2004.

Normal Easement Purchases With Municipal Participation

- Every effort will be made to use the **standard**, state/county/township easement for all farms that have been selected for preservation for a given year through the normal Farmland Evaluation process and which follow the normal submission process to the state as outlined in Chapter 138.e. and prioritized on the annual application list. These easement documents are state issued and approved and are in no way to be modified in any manner. This easement is in compliance with section 914(a)(1)(iv)-(vi) and section 914.1. (b.1)(1)-(3). This easement is identified as state/county/township easement from DPERMULTSCL. (See Appendix A)

Bargain Sales With Municipal Participation

- Municipal participation in the purchase of an agricultural conservation easement on farms that are sponsored by the township and are prioritized and ranked on the annual application list, but are below the annual funding cut-off, also known as “Bargain Sales,” and requesting county funding, shall be required to use state approved easement language found in the state/county easement if county funds are used. This is *form* DPERJF. This is to ensure that the township easement conforms to the objectives of the county board and

to ensure that the township easement does not restrict normal farming operations. (See Appendix B).

Extenuating Circumstances

- The Bucks County Agricultural Land Preservation Board realizes that there may arise certain site-specific situations that may necessitate the need for a supplemental easement to the standard state/county easement. These situations may rise, but are not limited to, when a township pays more than the appraised value on a farm and would still wish to contribute to the purchase of an agricultural conservation easement utilizing state and county funds, but, due to the state regulations, cannot be a Grantee on the easement document. This would require a supplemental easement by the township. The following guidelines will be followed prior to any action by the Bucks County Agricultural Land Preservation Board:
- The Bucks County Agricultural Land Preservation Board, the State Agricultural Land Preservation Board, and the Bucks County Solicitor must first review and approve any proposed supplemental easement. The supplemental easement must, at a minimum;
- Contain language that it is subordinate to the county/state easement.
- Be recorded after the county/state easement is recorded preferable on a different day.
- Contain language that the easement cannot be extinguished and is in perpetuity.

RURAL ENTERPRISES—BUCKS COUNTY, PENNSYLVANIA

Rural Enterprise—Agricultural related services or activities associated with customary part-time or off season minor rural enterprises or activities incidental to agricultural production. These services and activities are permissible as long as they remain incidental to the agricultural and open space character of the farm. No excavating, paving, gravelling, construction of permanent structures, or other activities that would diminish the productive capacity of the soils are permitted in connection with such activities. The county reserves the right to review and approve these activities on a case-by-case basis.

Pursuant to State Regulations—Subchapter D, Section 138e.66(a) and Subchapter I, 138e.241(2)(D), the county Board State Board have approved the following customary part-time or off-season minor or rural enterprises and activities.

The agricultural conservation easement does allow these enterprises and activities on the subject land:

1. Direct sale to the public of agricultural products produced principally on the farm, provided that at least 50 percent of such products are produced by the farm operator;

2. Any and all structures contributing to the production, primary processing, direct marketing, and storage of agricultural products produced on the farm;
3. Structures associated with the production of energy for use principally on the farm including wind, solar, hydroelectric, methane, wood, alcohol fuel, and fossil fuel systems and structures and facilities for the storage and treatment of animal wastes;
4. The provision of services or production and sale, by persons in residence, of incidental agricultural goods, services, supplies, and repairs and/or the conduct of traditional trades and the production and sale of home occupation goods, arts and crafts, so long as these uses remain incidental to the agricultural and open space character of the farm and are limited to occupying residential and/or principally agricultural structures of the property.
5. The accommodation of tourists and visitors within principally family residential and/or agricultural structures otherwise permitted under the law so long as they accommodations of tourists and visitors is undertaken as a part-time or off-season minor or rural enterprise and is incidental to the agricultural and open space character of the property.
6. Structures and facilities associated with irrigation, farm pond impoundment, and soil and water conservation on nutrient management.
7. Other similar uses upon approval by the Bucks County ALP Board and the state Agricultural Land Preservation Board.
8. No more than (10.%) of the total conservation easement area shall be covered by permanent buildings for any purpose. Temporary agricultural buildings that do not have permanent foundations will not be considered as permanent buildings. The spaces between buildings, such as yards, driveway, and parking areas, shall not be included in the calculation of building coverage. Buildings that are present on the restricted land on the date of the easement shall be included in the calculation of building coverage.
9. The boarding of horses is permitted provided that it is undertaken as a part-time or rural enterprise and is incidental to the agricultural and open space character of the property. No excavation, paving, or construction of permanent non-agricultural structures or other activities that would diminish the productive capacity of the soils are permitted in connection with such activities.
10. The installation of communications antennae on existing structures along with associated equipment and structures shall be permitted, provided that the installation or construction of any permanent non-agricultural equipment or structures associated with the communications antennae shall be located within the existing curtilage at the base of the existing structure supporting the communications antennae and such associated equipment or structures shall remain incidental to the agricultural and open space character of the property.

**SUBDIVISION GUIDELINES FOR LAND SUBJECT
TO AN AGRICULTURAL CONSERVATION EASEMENT
UNDER THE BUCKS COUNTY
AGRICULTURAL LAND PRESERVATION PROGRAM**

PURPOSES

The purposes of the Bucks County Agricultural Land Preservation Board (“County Board”) Subdivision Guidelines are to implement the subdivision provisions of Pennsylvania’s “Agricultural Area Security Law” (the “Act”) (3 P.S. §§ 901-915), as amended, and the Regulations promulgated thereunder by the Pennsylvania Department of Agriculture (the “Regulations”), and to provide for the administration of such Act and Regulations, in conjunction with the present Subdivision Guidelines, as appropriate for Bucks County, Pennsylvania. The Subdivision Guidelines are intended to preserve as much farmland as possible in integral tracts and to promote viable agricultural enterprises. Special exceptions to the guidelines will be considered by the County Board of a case-by-case basis depending on the size of the subdivided tracts, township zoning, neighborhood characteristics, and other pertinent factors.

GENERAL PROVISIONS

Land subject to an agricultural conservation easement may be subdivided, provided the owner(s) meet(s) the criteria contained in these guidelines. All expenses incurred by such subdivision shall be the sole responsibility of the landowner(s). The burden of proof that any proposed subdivision of land subject to an Agricultural Conservation Easement conforms to and complies with the Act, the Regulations and the present Subdivision Guidelines shall be upon the applicant(s)/landowner(s).

DEFINITIONS

- **Economic viability of farmland for agricultural production:** The capability of a particular tract of restricted land, other than a tract of two acres or less upon which construction and use of the landowner’s principal residence or housing for seasonal or full-time employees is permitted pursuant to Section 14.1(c)(6)(iv) of Act 3 P.S, §914.1(c)(6)(iv), to meet all of the criteria set forth in 7 PA Code §138e.16(a)(2), (3), (4) and (5) (relating to minimum criteria for applications).

Harm the economic viability of the farmland for agricultural production: To cause a particular tract of restricted land to fail to meet the criteria set forth at 7 PA Code §138e.16(a)(2), (3), (4) and (5) (relating to minimum criteria for applications), or to create, through subdivision, a tract of restricted land, other than a tract of two acres or

Less upon which construction and use of the landowners principal residence for housing for seasonal or full-time farm employees is permitted pursuant to section 14.1 (c)(6)(iv) or the Act (3P.S. §914.1(c)(6)(i), that would fail to meet the afore described criteria.

▪ **Land development – Either of the following activities:**

1. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving a group of two or more residential buildings, whether proposed initially or cumulatively; or
2. A subdivision of land.

- **Land Which has been devoted primarily to agricultural use:** That acreage which is part of restricted land and is harvested cropland, grazing, or pasture land, land used for the production of timber and wood products, land containing non-residential structures used for agricultural production, or other acreage immediately available for agricultural production, and which excludes any acreage upon which immediate agricultural production is impracticable due to residential structures and their curtilages, wetlands, soil quality, topography or other natural or man-made features, and which further excludes any tract of two acres or less designated as the site upon which the landowner’s principal residence or housing for seasonal or full-time employees is permitted pursuant to Section 14.1(d)(6)(iv) or the Act 3P.S. §914.1(c)(6)(iv).

Pennsylvania Municipalities Planning Code: The Act of December 21, 1988,(P.L. 1329, No. 170) 53P.S. §§10101-11201).

Subdivision: The division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development.

GENERAL CRITERIA

There are two types of subdivision of a preserved farm: A subdivision of up to two acres for the construction of the one additional house permitted by the deed, or the subdivision of a farm into smaller farms. Each type is considered differently by the Agricultural Land Preservation Board.

A. Subdivision of one building lot

The owner(s) of a tract of land subject to an Agricultural Conservation Easement “Property” may subdivide such Property, provided that:

1. The subdivision conforms with County and municipal planning, zoning and subdivision requirements, and has been reviewed and recommended for approval by the Bucks County Planning Commission and the appropriate municipal planning commission and the municipal

governing body, pursuant to Pennsylvania’s Municipalities Planning Code (Act 247), and amended: and

2. If the “Property” is less than 100 acres, subdivision shall be approved by the County Board only if the subdivision involves subdividing no more than two (2) acres initially for the construction and use of the landowner’s principal residence or for the construction and use of housing for seasonal or full-time employees.

B. Subdivision of farm into smaller farms

1. All farm tracts created by the subdivision are and will remain economically viable for agricultural production (as defined above); and
2. The subdivided is consistent with the Statement of Purpose of the Bucks County Agricultural Preservation Board Program Guidelines, as amended; and
3. The Subdivision conforms with County and municipal planning, zoning and subdivision requirements, and has been reviewed and recommended for approval by the Bucks County Planning Commission and the appropriate municipal planning commission and the municipal governing body, pursuant to Pennsylvania’s Municipalities Planning Code (Act 247), as amended; and
4. If the preserved parent tract is 100 acres or more, subdivision shall be permitted only if:
 - a. No new tracts below 50 acres are created and the parent tract remains greater than 50 acres in size; and
 - b. The number of subdivided tracts per “property” does not exceed the number allowed by the following schedule; and

Area Subject to the Agricultural Conservation Easement	Number of Farm Tracts Permitted
100-200 acres	2
201 + acres	3

5. **Once a preserved farm has been subdivided, the new parcels and remaining parent parcel will not be further subdivided, and the new deeds must reference the prohibition against further subdivision; and**
6. All new parcels and the remaining parent parcel shall continue to be subject to the terms of the original agricultural conservation easement; and
7. The subdivision meets the following specific criteria:

Specific Criteria

1. The subdivision will not:

- a. cause the reduction of the effectiveness of soil and water conservation projects that have been installed on the land; or
 - b. eliminate water rights and water access points; or
 - c. convert land devoted primarily to agriculture (as defined above) to another use, except for a tract of no more than two acres set aside for the construction of the landowner's principal residence, or housing for seasonal or full-time farm employees.
2. For resulting tracts 75 acres or more, 50 percent of the area must be harvested cropland, orchard, pasture or grazing land. For resulting tracts less than 75 acres, 75 percent (75%) of the area must be harvested cropland, orchard, pasture or grazing land.
 3. Fifty percent (50%) of the soils in each tract of 50 or more acres resulting from the subdivision must be available for agricultural production and in USDA Land Capability Classes I-IV.
 4. The owner of the parent tract shall indicate on which subdivided tract the one allowed residential structure may be constructed, if that additional residence has not already been constructed.
 5. If it is to be constructed, the one allowed residential structure and its curtilage shall occupy no more than two acres.
 6. Nothing in this Section shall relieve the landowner of any municipal, county, or state regulations, procedures, or requirements necessary for the subdivision of land.

PROCEDURE/REQUIREMENTS

Landowner(s) shall submit plans for proposed subdivision to the Bucks County Agricultural Land Preservation Board well in advance of proceeding with detailed subdivision mapping, in order to assure that the subdivision will be consistent with the Act, the Regulations and present Subdivision Guidelines, and so that the landowner(s) can avoid unnecessary expenses.

The applicant(s) shall submit the following information to the Bucks County Agricultural Land Preservation Board:

An application form to the Bucks County Agricultural Land Preservation Board, for subdivision of a preserved farm, completed and signed by the owner(s). Copies of the application form are available from the Bucks County Farmland Preservation Office.

1. A letter of intent signed by the landowner(s) requesting the subdivision review and explaining the reasons for such a subdivision, including a demonstration based on crop and animal production and capacity that the agricultural economic viability of the resulting parcels will not be diminished as a result of the proposed subdivision.

2. Size and soils information for the proposed parcels, which information should be obtained from the Bucks County Conservation District/Natural Resources Conservation Service Offices.

The applicant(s) shall have the burden of demonstrating, by a preponderance of evidence, that the criteria set out in these Subdivision Guidelines, as well as the requirement of the Act and Regulations, have been satisfied. If the applicant fails to do so, the County Board shall not approve the application.

Upon receipt of the application, the County Agricultural Land Preservation Board shall notify the Bucks County Planning Commission. The county planning commission shall have 60 days from receipt of such notification to review, comment and make recommendations on the proposed application. The provisions for municipal and county review under Act 247 will still apply.

After reviewing the county planning commission's recommendations, the county Board shall approve or reject the application to subdivide within 60 days after the date of its filing unless the time is extended by mutual agreement of the landowner and reviewing agencies. Approval by the County Agricultural Land Preservation Board is conditional, and is contingent upon approval by the State Agricultural Land Preservation Board.

If the application to subdivide land is approved by the County Board, a copy of the application, along with the comments and recommendations of the reviewing agencies, shall be forwarded to the State Agricultural Land Preservation Board for review and approval or disapproval. When reviewing an application to subdivide land subject to an agricultural conservation easement, the State Agricultural Land Preservation Board shall consider only whether the application complies with the conditions under which subdivision are permitted by the approved county program. The State Agricultural Land Preservation Board shall notify the County Board of its decision regarding the application.

If the application to subdivide is rejected by the County Board, the application shall be returned to the landowner with a written statement of the reasons for such rejection. Within 30 days after the receipt of the statement of rejection, the landowner may appeal the rejection in accordance with 2 PA Code Chapter 5 Subchapter B (relating to judicial review of local agency action).

If the application to subdivide is approved by the County Agricultural Land Preservation Board, The State Agricultural Land Preservation Board, and the appropriate municipality, the owner of the parent tract must ensure that the deeds to the subdivided tracts recite verbatim the restrictions of the Agricultural Conservation Easement and these Subdivision Guidelines, and the tract not receiving the house must state in its deed that no house may be built.

CHANGE IN OWNERSHIP

- (a) All properties within Bucks County upon which conservation easements are placed shall recite in verbatim the language of the easement as set forth in the deed whenever interest in said properties is conveyed or transferred to another person (§ 14.1(j) (1-3)).
- (b) All persons conveying or transferring land subject to an agricultural conservation easement shall notify the County Board and the Department of Agricultural within 30 days of a change in ownership of the restricted land and the price per acre or portion

thereof received by the landowner from said person, together with the volume and page in which the transfer has been recorded by the Bucks County Recorder of Deeds.

- (c) Whenever interest in land subject to an agricultural conservation easement is conveyed or transferred to another person, the deed conveying or transferring such interest shall recite in verbatim the language of the easement restrictions as set forth in the deed executed in connection with the purchase of the agricultural conservation easement

BUCKS COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM AGRICULTURAL EASEMENT ENFORCEMENT POLICY

In accordance with Chapter 138e.204 of the Agricultural Conservation Easement Purchase Program, the Bucks County Agricultural Land Preservation Board is required to inspect all farms under easement on an annual basis. The board has the responsibility to ensure that the terms of the easement are being followed.

The Permitted Acts of an agricultural easement are as follows:

Permitted Acts—During the term of the agricultural conservation easement conveyed herein, the subject land shall be used solely for the production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of such crops, livestock or livestock products if more than fifty percent of such processed or merchandised products are produced on the subject land (hereinafter “agricultural production”). For purposes of the agricultural conservation easement, “crops, livestock and livestock products” include, but are not limited to:

- (i) Field crops, including corn, wheat, oats, rye barley, hay potatoes and dry beans;
- (ii) Fruits, including apples, peaches, grapes, cherries and berries;
- (iii) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms;
- (iv) Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers;
- (v) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, forbearing animals, milk, eggs and furs;
- (vi) Timber, wood and other wood products derived from trees; and
- (vii) Aquatic plants and animals and their byproducts.

Except as permitted in this easement, neither Grantor nor his agents, heirs, executors, administrators, successors and assigns, nor any person, partnership, corporation or other entity

claiming title under or through Grantor, or their agents, shall suffer, permit, or perform any activity on the subject land other than agricultural production.

Construction of Buildings and other Structures—The construction or use of any building or other structure on the subject land other than an existing on the date of the delivery of this Deed is prohibited except that:

- (i) The erection of fences for agricultural production and protection of watercourses such as lakes, streams, springs and reservoirs is permitted.
- (ii) The construction of one additional residential structure is permitted if;
 - (A) The construction and use of the residential structure is limited to provide housing for persons employed in farming the subject land on a seasonal or full-time basis,
 - (B) No other residential structure has been constructed on the restricted land at any time since the delivery of the Deed,
 - (C) The residential structure and its curtilage occupy no more than two acres of the subject land, and
 - (D) The location of the residential structure and its driveway will not significantly harm the economic viability of the subject land for agricultural production.
- (iii) The construction or use of any building or other structure for agricultural production is permitted.
- (iv) The replacement of a residential structure existing on the restricted land on the date of the granting of the easement is permitted.

1. Notification to Landowner--In the event that the terms of the agricultural conservation easement are not met, the following procedures will occur:

(a) Within 10 days of the discovery of a violation of the terms of an easement, either through an inspection or otherwise, the County Board shall send written notice of the violation to the owner of the restricted land, the County governing body and the State Board.

(b) The written notice required by this section shall be sent by certified mail and shall set forth the following information:

- (1) copy of the inspection report
- (2) copy of the deed of easement
- (3) A description of the action or condition which constitutes the alleged violation.
- (4) A statement of the measures necessary to correct the alleged violation.

2. County Assistance

The landowner shall be granted 20 days from the date of the notification letter to meet with the County Board to discuss remedial actions. The County Board, in conjunction with the Bucks County Soil Conservation District, shall offer its assistance through either a site visit and/or meeting with interested parties to discuss implementation of remedial actions. At this time, a sequence of remedial actions and implementation schedule shall be discussed, agreed to and a statement of agreement shall be signed by the landowner and the Bucks County Board. In the agreement, the landowner shall agree to review the implementation schedule with the County Board, and the landowner agrees to all legal responsibility for implementation of the schedule further implied as compliance with the easement. It shall also be agreed that the corrective measures shall be completed in a period no to exceed 1 year from the date of this meeting.

3. Follow-up Inspection

- (a) A follow-up inspection of the property shall be conducted by the County Board 30 days after remedial measures as stated in the agreement are scheduled to commence.
- (b) A statement of compliance shall be sent to the landowner following the inspection.
 - (1) If the landowner is not in compliance with the agreement, the County Board shall send a statement of non-compliance to the landowner, advising the landowner that the County Board has referred this matter to counsel.
 - (2) If the landowner is in compliance with the schedule, the compliance letter shall verify corrective procedures implemented and those remaining on the schedule and remind the ending the established one year periods.

4. Enforcement Actions

- (a) Upon violation of the statement of agreement or if corrective measures have not been completed within the established one year period, the County Board shall commence and prosecute an action in the Court of Common Pleas seeking an injunction, requiring correction of the violation, and enjoining further violation of the terms of the easement, seeking repayment of a proportionate share of the consideration paid the landowner for the easement, costs and attorney fees and such other appropriate relief as the Court might deem appropriate.
- (b) The owner of the restricted land shall bear all costs associated with the correction of a violation of the easement, including;
 - (1) Costs of work required and materials used to correct the violation.
 - (2) Administrative costs incurred by the County Board and the State Board.
 - (3) Court costs and reasonable attorney's fees incurred by the County Board and the State Board in enforcing the easement.

PUBLIC INFORMATION

The Bucks County Agricultural Land Preservation Board is subject to the Act of July 3, 1986 (P.L. 388, No. 84), known as the Sunshine Act and the Act of June 21, 1957 (P.L. 390, No. 212), referred to as the Right-To-Know Law relating to the inspection and copying of public records. Monthly Board meetings, which are open to the public, are held the first Thursday each month at 8:00 p.m. in the Almshouse Conference Room, Neshaminy Manor, Doylestown, PA.

The Board publicizes the County Program through the publication of news releases, press conferences, newspaper, radio and television coverage of special events and public recognition of landowners who preserve their farms at regularly scheduled Commissioners meetings. Public outreach presentations include agricultural organizations, municipalities, community service organizations, churches and public and private schools. Presentations are also made to professional organizations such as the Central Bucks County Chamber of Commerce and the Bucks County Association of Realtors. Publications include an informational brochure and the Annual Report.

Appendix A: Bucks County, Pennsylvania Farmland Ranking System

Applicants will be ranked using a two-part Land Evaluation and Site Assessment (LESA) system. The Land Evaluation looks at the quality of soils and the Site Assessment considers locational factors that may have an impact on current or future viability of the farm.

Land Evaluation (40 percent of the System)

This part of the LESA System is based on soils data obtained from the Bucks County Soil Survey as published by the USDA Natural Resource Conservation Service (USDA-NRCS) in cooperation with Penn State University and the Pennsylvania Department of Environmental Protection.

Each soil-mapping unit in Bucks County has been assigned a score based on its land capability, important farmland classification, and productivity. Based on these factors, each soil has been assigned a relative value, with 100 being assigned to the best soils for agricultural production in the county. All the other soils in the county have been assigned relative values less than 100.

The relative value for each soil type will be multiplied by the acreage of that individual mapping unit. The sum of all these relative values for the soils will be divided by the total acreage of the farm to obtain the overall relative value for the farm. The average relative value is multiplied by .40 to adjust for soils representing 40 percent of the overall ranking.

Site Assessment (60 percent of the System)

The site assessment portion of LESA System consists of factors, which relate to the viability of the site for present and future agricultural use. These factors consider development pressures in the area and the likelihood of future development impacting the farm operation. The site assessment considers factors that affect the relative importance of the site for agriculture. These factors are grouped into three categories for evaluation and rating:

1. Development Potential: Factors that measure the limitations to continue farming on a subject site imposed by development pressures.
2. Farmland Potential: Factors that measure the potential agricultural productivity or farming practices of the site. These factors may include secondary values of a site such as historic, cultural, scenic, or environmental values.
3. Clustering Potential: Factors which measure the importance of preserving blocks of farmland which support commercial agriculture and help to shield the agricultural community against conflicts with incompatible land uses.

The weighted scores are obtained by multiplying the individual scores for each site assessment category (maximum of 100 Points for each category) with the variable weighted value for Development Potential (DP), Farmland Potential (FP), Clustering Potential (CP) and Land Evaluation (LE). The weighted scores are added for all of these criteria and ranked by priority according to the highest total weighted score to the lowest total weighted score. The point value arrived at through the use of this system will be used to prioritize farm sites for the purchase of conservation easements. The numerical system may be revised. Such revisions shall proceed in compliance with the provisions of the State regulations.

DEVELOPMENT POTENTIAL FACTORS

WEIGHT=0.10

- | | |
|--|----|
| 1. Distance to Public Water/Public Sewer | |
| - Sewer/Water line at Site | 15 |
| - Sewer/Water line within 1,000 feet | 10 |
| - Sewer/Water line within 1/4 mile | 5 |

Explanation: A site serviced by water lines is more likely to be surrounded by incompatible land use and increase a farm's likelihood of conversion.

- | | |
|----------------------------|----|
| 2. Amount of Road Frontage | |
| - 2,000 feet or more | 20 |
| - 1,500 feet to 1,999 feet | 15 |
| - 1,000 feet to 1,499 feet | 10 |
| - 500 feet to 999 feet | 5 |
| - Less than 500 feet | 0 |

Explanation: The access to public roads and visibility of the subject site increases the suitability of the tract for conversion to non-farm uses.

- | | |
|--|----|
| 3. Land Uses Adjacent to the Tract | |
| - 100% of the land adjoining the tract is non-agricultural | 10 |
| - 75-99% of the land adjoining the tract is non-agricultural | 8 |
| - 50-74% of the land adjoining the tract is non-agricultural | 6 |
| - 25-49% of the land adjoining the tract is non-agricultural | 4 |
| - 1-24% of the land adjoining the tract is non-agricultural | 0 |

Explanation: Farms are more likely to be converted to other uses if surrounded by incompatible land uses.

- | | |
|--|----|
| 4. Zoning of Area Adjacent to Farmland Tract | |
| - High Density | 15 |
| - Medium Density | 10 |
| - Low Density | 5 |

Explanation: This factor awards points to farms located in high-density districts.

- | | |
|--|----|
| 5. On-site Wastewater Disposal Potential | |
| - > 70% Class I and II Soils | 20 |
| - > 50% Class I and II Soils | 10 |

Explanation: This factor awards points to those farms with a high degree of wastewater disposal potential.

- | | |
|---------------------------------------|----|
| 6. Percentage of Farm Being Preserved | |
| - >90% | 20 |
| - 80-89% | 10 |
| - <79% | 5 |

Explanation: This factor rewards sites with high proportions of area to be covered by a proposed easement.

FARMLAND POTENTIAL FACTORS **WEIGHT=.25**

- | | |
|--|----|
| 1. Percentage of Farm Used for Harvested Crop land, Pasture, and Grazing land. | |
| - 80-100% | 15 |
| - 60-79% | 10 |
| - 40-59% | 5 |

Explanation: This factor considers the current agricultural use of the tract and awards those farms with a greater percentage of total area currently in production.

- | | |
|---|----|
| 2. Soil and Water Conservation Practices Used on the Tract at the time of application | |
| - NRCS Conservation plan 75-100% implemented | 20 |
| - NRCS Conservation plan 50-74% implemented | 10 |
| - less than 50% | 0 |

Explanation: This factor rewards those farms with active conservation and land management practices in effect.

3. Duration of Ownership

- Duration of ownership by the same family is >21 yrs. 7
- Duration of ownership by the same family is 11-20 yrs. 5
- Duration of ownership by the same family is 6-10 years 3
- Duration of ownership by the same family is 3-5 yrs 1

Explanation: This section awards points to those families that have lived on and farmed their land for many years.

4. Condition of Farm Buildings on Tract

- Farm buildings are in good condition 6
- Farm buildings are adequate 3
- Farm buildings are in poor condition 0

Explanation: Sound farm buildings are important to the overall viability of a farm.

5. Size of Site

- Total Farmland tract 100 acres or more 13
- Total Farmland tract 75-99 acres 10
- Total Farmland tract 50-74 acres 7

Explanation: Large parcels will be necessary for maintenance of farming operations in perpetuity. Tracts are awarded points according to size.

6. Percent of Landowners' total family income derived from farming operation.

- 85-100% 13
- 70-84% 10
- 55-69% 8
- 40-54% 6
- <40% 0

Explanation: This factor rewards those applicants who derive the majority of total income from farming operations.

7. Farming Operations Contribution to Community

- >50% of commodities produced on the farm and sold on-site 8
- 20-50% of commodities produced on the farm and sold on-site 4

Explanation: This factor awards points to those farms with on-site retail markets.

4. Starting New Cluster

20

Explanation: All applications for farms located in a municipality with less than four easements purchased through this program shall receive 20 points. This item shall be independent of the “Proximity to Eased Farms” item and shall apply to all applications from a municipality until four easements have been purchased in that municipality.

5. Percent Land Within One-Mile Radius of Farm Parcel in Agricultural/Woodland/ Open Space Uses

- 75-100% of land surrounding farm in ag/woodland/open space 10
- 50-74% of land surrounding farm in ag/woodland/open space 7
- 40-49% of land surrounding farm in ag/woodland/open space 5
- 25-39% of land surrounding farm in ag/woodland/open space 3

Explanation: This factor measures the agricultural character of the area and the desirability/consistency of preservation efforts in the area.

6. Longevity on Application List

- 5+ years 10
- 4 years 6
- 3 years 4
- 2 years 2

Explanation: This factor rewards property owners that have been patient with their applications

A. Using worksheet points, the points awarded for each item will be rounded to the nearest tenth (<.x5 round down, ≥.x5 round up) and subtotaled for each of the four categories above: Soils, Development Potential, Farmland Potential and Clustering Potential. Subtotaled scores for each category will then be multiplied by the weight for each category and rounded the nearest hundredth (<.xx5 round down, ≥.xx5 round up). After multiplying the category subtotal by the category weight (yielding and weighted subtotal) the weighted subtotals will be added and the result will be rounded to the nearest tenth (<.x5 round down, ≥.x5 round up). This is the final score.

B. The County Board will review the scores of the applicants and determine a final ranking of the applicants for appraisal based on the scoring system results.

C. In the case of tie scores, the tract with the higher soil score will be ranking higher.

APPENDIX B
BUCKS COUNTY AGRICULTURAL LAND PRESERVATION
BOARD AUTHORIZATION

BUCKS COUNTY COMMISSIONERS
February 22, 1989

A REGULAR MEETING of the Bucks County Commissioner was held this day in the Community Room with all members present. Chairman Warren opened the meeting with a moment of silent prayer followed by the Pledge of Allegiance to the Flag.

AGRICULTURAL PRESERVATION BOARD

Nine member to be appointed—four farmers for 3-year terms, one local elected official for a 2-year term, one builder or contractor for a 1-year term and three other county citizens for 1-year terms.

Farmers category

William Yerkes 3rd of Buckingham (Buckingham Township)
Kenneth Beer of Perkasio (Hilltown Township)
Manfred Maschweski of Riegelsville (Durham Township)
Penrose Hallowell of Ottsville (Tinicum Township)

Local elected official category

A. Warren Kulp Jr. of Perkasio (Bedminster Township)

Builder or contractor category

Other citizen category

Dr. Joshua Feldstein of Doylestown (Doylestown Township)
Darwin M. Dobson of Southampton (Upper Southampton Township)
Walter Domorod of Morrisville (Falls Township)

Comments by Staff—None

Comments by Commissioners—None

ADJOURNMENT

Upon motion of Mr. Schweiker, seconded by Mrs. Trench, and meeting was adjourned.

Approved: February 22, 1989

**APPENDIX C
BUCKS COUNTY AGRICULTURAL LAND PRESERVATION BOARD**

NAME	(3 YEAR TERM)	TERM EXPIRES
Bartley E. Millett 4395 Route 212 Riegelsville, PA 18077 610-346-8361 (H)		2/22/08 (Elected Official)
Penrose Hallowell, Chairman 36 Oak Grove Road Pipersville, PA 18947 766-2914 (H) 345-7300 (O)		2/22/07 (Farmer)
Manfred Marschweski R.D. #1, Box 25 Riegelsville, PA 18077 610-7492389 (H)		2/22/07 (Farmer)
Kenneth Bupp P.O. Box 346 Bedminster, PA 18910 795-2475 (H)		2/22/07 (Farmer)
Dr. Joshua Feldstein Box 118 Delaware Valley College Doylestown, PA 18901 345-1863 (O)		2/22/08 (Citizen)
Rebecca Ann Kiefer 916 Elbow Lane Warrington, PA 18976 343-9124 (H) 348-6270 (O)		2/22/08 (Citizen)
William Yerkes III 2209 Swamp Road Furlong, PA 18925		2/22/08 (Citizen)
Kenneth Goldenberg 3118 FretzValley Road Perkasie, PA 18944 795-2274 (H)		2/22/08 (Farmer)
Marty Schaefer Ivyland Builders, Inc. 216 West Bristol Road Suite D Ivyland, PA 18974 215-956-0926		2/22/08 (Builder Contactor)

**APPENDIX D
BYLAWS
OF
BUCKS COUNTY AGRICULTURAL LAND PRESERVATION BOARD
BUCKS COUNTY, PENNSYLVANIA
PROGRAM**

The Bucks County Agricultural Land Preservation Board, in accordance with provisions contained within Act 149, have adopted the following rules of procedures and bylaws governing the operation of the county Board:

ARTICLE I—NAME:

The name of this organization shall be the Bucks County Agricultural Land Preservation Board, hereinafter referred to as the “Board.”

ARTICLE II—ESTABLISHMENT AND PURPOSE:

The Board was established by the Bucks County Board of Commissioners at a regularly scheduled meeting held on February 22, 1989. Pursuant to the provisions of 3 P.O. §901, et. seq., as amended, known as the Agricultural Area Security Law for the following purposes:

- (1) To administer a program for purchasing agricultural conservation easements on behalf of the county. It is the purpose of this program to protect and promote continued productive agricultural use on viable agricultural lands by acquiring agricultural conservation easements which prevent the development or improvement of the land of any purpose other than agricultural production and allowed related agricultural activities;
- (2) To provide a clearinghouse to facilitate the purchase of farm properties placed on the market for sale by farmers;
- (3) To promote efforts to support the agricultural industry in Bucks County;
- (4) To encourage the use of additional farmland preservation techniques through public and private organizations in the County;
- (5) Perform such other duties and responsibilities as may be authorized pursuant to the Agricultural Area Security Law.

The Board shall adopt rules and regulations for the administration of a county-wide program for the purchase of agricultural conservation easements within agricultural security areas. The Board shall execute all agreements or other documents necessary to effect the purchase of such agricultural conservation easements in the name of the Buck County and/or the Commonwealth of Pennsylvania.

ARTICLE III—MEMBERSHIP:

The Board shall be composed of nine members to be appointed from the following groups by the County Commissioners:

- (1) Four farmers shall be appointed to the Board,
- (2) One current member of the governing body of the township or borough located within Bucks County shall be appointed to the Board,
- (3) One commercial, industrial or residential building contractor shall be appointed to the Board.
- (4) Three persons to be selected at the pleasure of the Buck County Board of Commissioners shall be appointed to the Board.

ARTICLE IV—TERM OF OFFICE:

The initial term of the appointees under Article III [see (1)] above shall be for three years. The initial term of the appointees under Article III [see (2)] above shall be for two years. The initial term of the appointees under Article III [see (3) and (4)] above shall be one year. Thereafter, the term of all members appointed to the Board shall be three years. The position held by the appointee under Article III [see (2)] above shall be deemed vacant upon vacancy in, or the expiration of the term, of the township or borough office to which the member was elected.

ARTICLE V—CONFLICT OF INTEREST:

Board members shall attend a minimum of sixty percent of all Board meetings, whether regular or special. Any member who is unable to attend a meeting should notify the director prior to the meeting.

ARTICLE VI—ATTENDANCE BY BOARD MEMBERS:

The Board members shall attend a minimum of sixty percent of all Board meetings, whether regular or special. Any member who is unable to attend a meeting should notify the director prior to the meeting.

ARTICLE VII—REMOVAL FROM OFFICE; VACANCIES:

Any Board member may be removed from office for malfeasance, misfeasance, or nonfeasance in office or for other just cause by the majority vote of the Board of County Commissioners, taken after the member has received fifteen days' advance notice of the intent to take such vote. A hearing shall be held in connection with the vote if the member shall request it in writing. Any appointment to fill any vacancy created by removal, resignation, or otherwise shall be only for the unexpired term.

ARTICLE VIII—OFFICERS:

The Chairman of the county governing body shall designate annually one member of the Board to serve as chairman of the county Board. The other officers of the board shall include a vice chairman, a secretary, and a treasurer. The chairman shall preside at all meetings of the Board

and shall have the duties normally conferred by parliamentary usage on such officers. The vice chairman shall act for the chairman in his absence. The treasurer shall be responsible for keeping and maintaining records of all receipts and disbursements and shall annually submit a financial report to the Board no less than once a year, with the assistance of such staff as is available. The secretary shall be responsible for keeping minutes of all regularly scheduled county Board meetings and the forwarding of such minutes to the director for transcription.

ARTICLE IX—ELECTION OF OFFICERS:

Officers shall be elected annually by the Board members at the regularly scheduled meeting for April.

ARTICLE X—VOTING:

Each member of the board will be allowed to cast one vote.

ARTICLE XI—REMOVAL OF OFFICERS-VACANCY:

Officers can be removed from office at any time for just cause by the majority vote of all Board members.

ARTICLE XII—MEETINGS:

Regular meetings shall be held the 1st Thursday of each month at a time and location designated by the Board and subject to change. Special meetings shall be held at the call of the director or chairman.

ARTICLE XIII—CONDUCT OF MEETINGS:

All Board meetings shall be open to the public in accordance with Pennsylvania Act 175 of 1974. Robert's Rules of Order shall apply to all events not otherwise covered by the bylaws.

ARTICLE XIV—QUORUM:

A majority of the total Board membership shall constitute a quorum for the conduct of business.

ARTICLE XV—COMMITTEES:

The chairman may appoint such committees as are desirable for accomplishing the purpose of the Board.

ARTICLE XVI—AGRICULTURAL SECURITY AREA ADVISORY COMMITTEES:

The Board shall consult with and seek the advice of the Agricultural Security Area committees with respect to the prospective purchase of easements within their respective municipalities and with respect to such other matters as the Board may deem appropriate.

ARTICLE XVII—DIRECTOR:

The Board shall use moneys appropriated by the county governing body from the general fund to obtain staff and administer the county-wide program. The director will be contracted as an employee of Bucks County and the Agricultural Land Preservation Program.

ARTICLE XVIII—STAFF ASSISTANCE FROM OTHER AGENCIES:

The Board may receive assistance from the staff of the Bucks County Planning Commission, other Bucks County departments as provided by the Bucks County Board of Commissioners, or from other sources as they become available.

ARTICLE XIX—FINANCES:

The Board shall operate within an operating budget allocated in addition to easement purchase funds as approved annually by Bucks County Board of Commissioners. Board members may be reimbursed by expenses incurred in the course of their service on the Board.

ARTICLE XX—AMENDMENTS:

The bylaws may be amended by a Board meeting by a 2/3 vote of the entire membership of the Board, provided such amendments, along with a notice of the date of the meeting, shall have been circulated to all Board members at least two weeks prior to the meeting.