



July 9, 2013

Office of The Attorney General

- John J. Hoffman, *Acting Attorney General*

Division of Law

- Christopher S. Porrino, *Director*

Media Inquiries-

Lee Moore
609-292-4791

Citizen Inquiries-

609-984-5828

Grower Ordered to Restore Destroyed Farmland; Ruling a Win for N.J. Farmland Preservation Effort

TRENTON – In an important legal victory for the State’s farmland preservation efforts, a Superior Court Judge has ruled that a commercial plant grower in Hunterdon County must restore prime farmland that he damaged to its prior crop-growing capability, Acting Attorney General John J. Hoffman announced today.

”This is a significant ruling, not only because it affirms the duty of land owners to comply with the State’s farmland preservation laws, but because it makes plain that violators can, and will, be held accountable for their actions,” said Acting Attorney General Hoffman.

“New Jersey has made considerable investments over the past 30 years to protect farms with quality soils that can support agriculture now and in the future,” said Agriculture Secretary Douglas H. Fisher. “By requiring the restoration of damaged soils on Quaker Valley Farms, this decision protects the public’s investment and agricultural interest -- not only in this preserved farm, but in the more than 2,000 other farms preserved under the state Farmland Preservation Program.”

A year ago, Superior Court Judge Peter A. Buchsbaum found that David Den Hollander, owner of Quaker Valley Farms in Franklin Township, was liable for destroying at least 14 acres of prime farmland he owned that was preserved under the State’s Agriculture Retention and Development Act. The land at issue was not only protected by deed-restriction, but rated as prime agricultural land – acreage capable of supporting such field crops as corn, wheat, oats, hay, barley and soy beans.

Den Hollander had the farmland leveled and excavated to construct greenhouses in 2007. The Division of Law subsequently filed suit on behalf of the State Agriculture Development Committee(SADC). SADC had determined through an expert evaluation that the qualities of the land that made it ideal for farming had been ruined, and that remediation would be required to attempt to restore the acreage to its prior condition.

While Judge Buchsbaum's decision in August 2012 held Den Hollander liable for destroying prime agricultural preserved land, it did not determine remedy. Remedy was the focus of a four-day trial that took place in May of this year. During that trial, the Court heard from soil experts retained by each side — including William Palkovics, an agronomist and soil scientist who testified on behalf of the SADC.

Following the trial, Judge Buchsbaum issued his decision on June 25. In that decision, he ruled that one area of the Quaker Valley acreage that had been used for growing mums was not actually excavated and therefore required no remediation. In two other areas, he ordered, the subsoil and topsoil must be replaced. Those two areas must be returned to a condition suitable for growth of such crops as corn, hay and soybeans. The land also must be re-graded so there are varying degrees of slope -- from 2 percent to 6 percent -- to allow for drainage while preventing erosion.

According to Judge Buchsbaum, the Hunterdon County Soil Conservation District or, if necessary, a special court-appointed Special Master will oversee the remediation process. Quaker Valley will be required to pay for a Special Master if one is needed.

Under the ruling, Quaker Valley has 30 days to prepare a remediation plan for the damaged farmland, and the SADC will have 30 days after that to comment on the plan.

Judge Buchsbaum noted in his decision that it may take several years of farming to determine if all criteria set forth for the damaged farmland have been met. Therefore, he ruled, annual reports on the status of the restoration are to be filed beginning July 1, 2014.

The judge rejected Den Hollander's request for an indefinite delay in getting the restoration project started, noting that, "Equity requires that a remedy for a wrong be undertaken with reasonable dispatch."

The Quaker Valley matter was handled on behalf of the State by Division of Law Deputy Attorney General Lisa Daglis, Deputy Attorney General Jason Stypinski, Attorney Assistant Julie Goldman, and Deputy Attorney General John R. Renella, who is Section Chief of the Division's Environmental Permitting and Counseling section.