

Ryan Short
14535 Mill Road
Fort Wayne, IN 46816
April 27, 2015

Ms. Pamela Walters
Staff Attorney
Indiana Department of Homeland Security
302 W. Washington Street
Room W246
Indianapolis IN 46204

Dear Ms. Walters:

I'm writing this letter based on the local decision the Allen County building commission) made in regards to my agricultural building permit. Please accept this letter as my official request to appeal this decision.

Per the documents I submitted with the building permit and included in this appeal (exhibit 1 – building application package), the building in question is being built for AG purposes for the further growth of my farming activity. It is my opinion, that the application I submitted meets the language of the legislation that the building is “intended to be or used only for an agricultural purpose on the land where it is located” and that the building is “not used for a retail trade or is a stand used for retail sales of farm produce for eight (8) or fewer consecutive months in a calendar year.” Since my building application meets this legislation and code, I believe I am entitled to an AG exempt building permit.

The background for the entire process that has occurred is a bit confusing since the first appeal was completed without an official appeal letter. Instead it was just based on verbal and email correspondences between Mr. Fuller and I. I will do my best to clearly layout the application and appeal process but please don't hesitate to contact me if you have any questions. My application was originally submitted and declined for the first time April 3rd (exhibit 2). This application did not include the 2014 tax info, the tax letter or planned building layout. Once declined I verbally requested and was granted an appeal. During the appeal we discussed the 4 points Mr. Fuller put as the reason for rejection (exhibit 2). I provided information to refute these statements and ultimately demonstrate my compliance to the code. In summary, I made the following arguments which we discussed in the hearing.

1. Building will be used for 4H projects and personal equipment storage (truck). I had stated that the building will be used for livestock including 4H livestock projects as well as for storage of my tractor and dump truck. The dump truck is used for hauling feed, fertilizer, straw and bedding dedicated to AG. For reference, I do already have a 3 car attached garage for the storage of personal vehicles.

2. Most recent tax forms not submitted with the application

I had provided Dave with 2012 and 2013 tax forms. He stated he needed 2014 tax form which I did not have. The filing deadline for 2014 is April 15th and at the time of submittal these were not completed. I have filed schedule F for agricultural income and deductions for the past 8 years and at time of submittal it was my opinion that these were the most recent forms. In the subsequent appeal described below I did submit 2014 tax information with the new application.

3. Tax forms that were submitted (2013) do not substantiate agricultural activity (ie. no expense for seed, feed, equipment depreciation, etc.)

My taxes did not spell out seed or feed expenses specifically but I offered to provide receipts for seed and feed purchases. It was stated that this would not change the decision to reject my application. However, I did provide information to support this in my appeal and second permit application. Also for reference we started raising livestock for the first time in 2014 so there are additional expenses associated with setting this up.

4. Less than 1% gross income claimed associated with agriculture

I cannot find any documents or requirements which state a minimum income required from Agriculture to qualify for the exemption.

After the hearing, I received the notice that the decision was being upheld (see exhibit 3 received last week via USPS) from Mrs. Murphy. What really surprised me was her reasoning why she supported Mr. Fuller's decision. This caught me off guard since we never specifically discussed whether my building was a class 1 or 2 structure but had instead focused discussion on the reasons Mr. Fuller had outlined in his rejection letter. My first question is whether her decision to uphold the denial can be based on reasons not outlined in the original rejection. Second, if new evidence can be presented is this a valid reason? Based on my review of local and state building codes it appears to me that AG exempt building permits are available for class 2 buildings. I interpret the code as stating AG buildings by definition are not class 1 structures. If this is the case then the upholding of the decision was based on inaccurate information or interpretation by Mrs. Murphy.

Based on the appeal hearing and subsequent rejection I then submitted a new building application with additional supporting documentation. This may not have been the appropriate way to go about this but I assumed I could make modifications to the application and re-submit it with additional information to be considered again. Particularly since I never had a chance to review or discuss the information on Class 1 verse 2 buildings and couldn't get an additional hearing to discuss. So as I stated I submitted another application which Mr. Fuller rejected (exhibit 1). I then appealed the decision with an official appeal letter (exhibit 8) which Mr. Fuller accepted and attempted to schedule an appeal (exhibit 6). However, Mrs. Murphy determined that another hearing was not warranted (exhibit 7) and stated I must pursue this at a state level.

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Therefore, I never did have a chance to question, understand or refute her reasons for upholding the decision about class 1 or 2 structures (exhibit 3).

In summary, my property is zoned Agricultural A1. I have received an ILP for an AG building and based on the Allen County zoning requirements (exhibit 5) and state codes I believe I have demonstrated through the application process and appeal that I meet all requirements to obtain an AG exempt permit. I also believe that during the appeal I demonstrated and provided supporting evidence to overturn the initial ruling unfortunately the hearing officer went a different direction and exempted me from an AG exempt permit by classifying the building as class 2. As I stated I could not find anything to support this but if it is the case I would appreciate the code that defines this.

I hope you can follow the events that led me to submit this appeal. It is difficult to put into writing and assure it can be followed. Please don't hesitate to contact me if you have any questions in regards to the application, appeal or uses of the building.

PS I have never been through this appeal process and am curious if you could call to walk me through it. I'm wondering about how long it will take for a decision to be finalized and what I will need to provide and support. Specifically as to the support I would like to understand if and how many times I will be required in Indianapolis or if I can participate locally via video or teleconference.

PSS Sorry, I thought of one more item. While I'm appealing this decision can I pull a standard permit to get started with the foundation until this appeal is finalized? And assuming I'm granted an AG exempt permit close or cancel the other permit?

Thanks in advance for your review of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Short", with a long horizontal flourish extending to the right.

Ryan Short
260-452-8850

Enclosures: Exhibits 1, 2, 3, 5, 6, 7 & 8