[redacted]
A Limited Liability Company
Attorneys At Law
[redacted]

November 3, 2026

Via Regular and Electronic Mail
Robert A. Willig, Senior Deputy Attorney General
Office of the Attorney General
1251 Waterfront Place-Mezzanine Level
Pittsburgh, PA 15222
[redacted]

Re: Correspondence Regarding ACRE Request for Review-Peters Township [redacted]

Dear Mr. Willig:

As Solicitor for Peters Township, I have been tasked with responding to your letter dated October 8, 2026, relative to the above-captioned matter. While communicating directly with the Township in advance is not required, it's unfortunate that the first communication the Township has received from your office was the aforementioned letter instead of a phone call or an in-person meeting to gather all the necessary facts to assist you with your inquiries.

At the outset, you should understand that Peters Township encourages and values the continuation of all farming operations, and appreciates the role that farms and farmers have historically made and continue to make in the growth and stability of the Township. The Township has no desire to negatively affect the rights of farmers and farm operations, values existing farmland, and does not believe its Ordinances interfere with any normal agricultural operations, including [redacted] ongoing use of his land, or land he does not own but leases. The Ordinances in question were generally enacted prior to 2007, and only 19 years later has a complaint been filed with your office, all the while farmers have continued operations that have thrived throughout the Township.

Had you inquired of the Township, or had [redacted] supplemented his September 1, 2026 Complaint, you would have come to learn that on September 28, 2026, the Township passed a revised Ordinance, in part at the request of [redacted] and his vocal advocacy, to increase separation of occupied structures to be 100' from existing farms. Ordinance 929 is attached for your review and consideration. *See,* **Exhibit 1**. To the extent you would like transcripts from those public hearings or existing videos from those meetings that demonstrat[redacted] support of the newly enacted Ordinance, the same can be readily provided for your review.

On a prior occasion, [redacted] brought to the Township Council's attention that a housing plan that was proposed to abut his farming operations, as evidenced by a land development plan, Tuscany II, would immediately result in his inability to maintain fully mature peach trees as the homes were to be built inside of 100' to his trees. In response to [redacted] concern, the Township Council requested that the Developer reconfigure his plan of home to ensure [redacted].

Writer's email: [redacted]

[redacted]trees and farming operations were protected, which the Developer agreed. A 100' setback was created from homes on lots that would serve to negate the effect on the ongoing farming operations and to protect [redacted] mature trees. The revised plan was accepted by the Developer and a revised site plan evidencing the 100' setback was approved by the Township. *See*, **Exhibit 2**. Although the plan was modified to reflect the 100' setback to protect the farming operations and trees, inexplicably, [redacted] and the developer reached a separate agreement to remove the buffer. The Township Council subsequently then took action to modify the Land Development Plan to remove the 100' setback. The aforementioned information does not appear to have been provided to you by [redacted] in his Complaint with his reference to "Tuscany II."

[redacted] sets forth that homes in the Tuscany II Plan of Lots are allowed within 8' of his property. This is incorrect. The 8' setback he refers to is in addition to the required 25' planted buffer to his farm. Rather than 8', the separation is actually 33'. Additionally, it was brought to the Township's attention that following the sale of the Tuscany II property to the developer, several of [redacted] peach trees were in-fact planted and being farmed on the developer's property.

The Township has various setbacks for farming operations that to the Township's knowledge, serves the purpose of protecting the health, safety and welfare of its residents and does not, and has not, interfered with any farming operations in the Township. Moreover, any existing structures or farming uses, if any, that don't comply with those current setbacks, are considered legal pre-existing non-conforming uses by the Township, such that the setbacks would have no application to those existing uses or structures of [redacted] or any other farmers in the Township. To date, the Township is unaware of these setbacks interfering with normal agricultural operations.

[redacted] provided to your office a synopsis of Ordinance 440-514 that omits a very important component that is inconsistent with his position. He cites in the Ordinance in part as:

> "1. Setback 200-foot with dust producing, odor producing and compost."

[redacted] did not accurately cite the exact Ordinance language to your office which is the most important part of the Ordinance provision. . The actual language in the Township's Ordinance is:

> "B. **Storage** of manure and/or odor- or dust-producing substances shall not be permitted within 200' of any property line." (Emphasis added).

The "storage", not the act of farming, is what is subject to the setback. The Township has never and will not deny farming up to the property line.

He goes on to explain that "[s]ince nearly every normal farming operation I do produce dust and odors, including, spraying, storing and spreading line and fertilizer, composting bad produce (not manure)." Not only has the Township not interpreted its Ordinance to negate normal farming activity up to the property line, it has never stopped any farming activities described as the plowing, planting and fertilizing of plants, which typically involved the planting and harvesting of crops on an annual basis. Based on Township knowledge, annual plowing, fertilizing, planting

activities, and harvesting activities have occurred and continue to occur on farmland up to the property lines unabated by the Township.

[redacted] necessarily understands that farming and dust creation from farming activities is not regulated by the Township (*e.g*, operating a tractor to plow the fields) and appears to conflate his reading of Township Ordinances with Environmental Protection Agency ("EPA") requirements with spraying of pesticides that has defined setbacks near structures associated with various application methods. The new Township Ordinance took those pesticide application setbacks into consideration with its greater separation of 100' from structures from farming activities in its new Ordinance. Further, Township Ordinance Section 440-514(G) acknowledges Pennsylvania's statutory protections of farms and provides "[n]ormal agricultural operations, as defined and regulated by the Pennsylvania Right to Farm Act, Act 133, as amended, shall be permitted as part of all farm and agricultural activities within the Township."

Peters Township Council recently established a policy that any future Land Development bordering a farm will include as part of the approved recorded plan a notice concerning the ACRE and the Right to Farm Act. Likewise notice of these acts will be incorporated into the deeds of the new homeowners.

Even absent greater setbacks, the same pesticides can be utilized at the property line as the setbacks aren't necessarily varied based entirely on the actual pesticide, but the method of application and all homes and occupied structures have setbacks to all property lines. The greater the size of the droplet of the pesticide used, the less setback is required for the use by the EPA. For instance, [redacted] uses aerosol which requires 100' separation from occupied structures for the spraying of his fruit trees. The same spray nozzle can be set to create different and larger droplets sizes arguably using the same pesticides to spray on trees to lessen or negate these setbacks without interfering with the farm. *See*, **Exhibit 3**. [redacted] has disputed the technology attached and explained in part why he believes the same is not a viable option. *See*, **Exhibit 4**. In his response, he suggested a call to [redacted] Chief; Division of Health and Safety of the Pennsylvania Department of Agriculture [redacted] I contacted [redacted] and spoke to him about pesticide setbacks. He explained that Pennsylvania law protects against local ordinances that would negate pesticide use, but further explained that using backpack sprayers and other means of application with larger droplet sizes of the pesticide could serve to reduce the setbacks to 25 feet from homes. Moreover, he was unsure why using larger droplet sizes could not regularly be applied to corn as [redacted] suggested. While he admitted that the application could be more costly and time consuming, he pointed out that this would be for a small portion of the crop closest to the nearest structure if the 100-foot separation could not be maintained and the rest of the crop could use the aerosol application method.

Based on the within information the Township would welcome the opportunity to meet with you to get your thoughts as to whether you believe any of our existing Ordinances interfere with farming operations in anyway so that we can evaluate options to ensure compliance with our statutory duties. While the Township understands the requirements of the statutes you cite and shares in the desire to foster protection for farmers and existing farms, I think all understand that the Township's obligations implemented by all state statutes find their genesis in the Pennsylvania and United States Constitutions. The law requires the Township to only enact Ordinances that are

protective of the public, health, safety and welfare of all of its citizens and this "police power" to develop protections flows in part from Article I, Section 1 of the Pennsylvania Constitution, consistent with the maxim *Sic utere tuo ut alienum non laedas*, "use your own property in such a way that you do not injure another's.".

Moreover, as our Supreme Court has held, local governments have obligations to ensure that all of its citizens' rights to clean air and pure water, citizens' constitutional rights found in Article I, Section 27, are not violated and those constitutional rights cannot be negated or minimized by any Pennsylvania statute. Peters Township was a Petitioner before the Pennsylvania Supreme Court where various portions of Act 13, a Pennsylvania statute, were struck down as unconstitutional when the "state statute" demanded protection to allow one type of land use to take precedence over neighboring land uses and in doing so denied the Township the ability to defend and preserve constitutional rights of all of its citizens and other land uses. Consistent with that understanding, is the Pennsylvania Statutory Construction Act which sets forth, § 1922. "Presumptions in ascertaining legislative intent" – provides in the enactment of statutes "(3) That the General Assembly does not intend to violate the Constitution of the United States or of this Commonwealth."

Importantly, please note, and as [redacted] is aware, the Township does not establish nor administer property tax assessment. This is a function performed by Washington County. The Township's understanding is that [redacted] has appealed or intends to appeal his property tax assessment. Peters Township chooses not to participate in opposition to any appeal.

The Township agrees that ACRE does not provide protection for oil and gas drilling as this is not a normal agricultural activity. The Township's concern however is the manner in which [redacted] has portrayed facts concerning this matter to your office. [redacted] suggests that in "in 2017 Peters twp. Ban (sic) drilling for gas and oil from my entire farm when every farm around me has cashed in on gas and oil ... my point is they have taken my gas and oil rights."

Peters Township cannot pass "special laws" for one classification of citizens as Article III, Section 32 of the Pennsylvania Constitution specifically was enacted to negate such behavior Oil and gas drilling is an industrial land use and as such was properly authorized and limited to the industrial zoning district along with all other industrial land uses in the Township. [redacted] never sought, nor wanted drilling to be allowed on his property, but on that of his neighbor who likewise did not live in an industrial zoning district. The Township can only authorize uses in districts that have compatible land uses and that are consistent with the zoning district's stated purpose and the Township's comprehensive plan. To violate the purpose of the district and to allow for an incompatible land use would serve to violate the Pennsylvania Constitution and citizens' rights which the Township cannot and will not condone.

Moreover, [redacted] gas rights have not been taken by any means. The days of required close surface drilling operations being necessary to extract gas from underneath properties are vestiges of the past. Today's technology allows operators to drill horizontal laterals over 5.5 miles in a subterranean fashion with a total depth of over 7 miles away from the surface location of the drill site to remove gas from underneath property, like [redacted] farm. *See*, **Exhibit 5**. The Township does not dictate to gas drillers their operational activities and Peters Township

has Marcellus Shale laterals extracting gas throughout the Township. The fact that gas/oil has not been extracted from underneath [redacted] farm to date has nothing to do with the Township nor the feasibility of operators to extract gas from under [redacted] property. The Township's compliance with the Constitution and zoning districts have not, and will not, negate the development of [redacted] gas/oil rights and the Township lacks the authority to create "special laws" for one subset of its citizens and to authorize activities in a zoning district inconsistent with the purpose of that district in violation of the Constitution. [redacted] argument is without any legal or technical merit and is contrary to current documented technology and the decisions by the Pennsylvania Supreme Court on the subject.

Additionally, while Peters Township is in the process of updating its comprehensive plan, it was the recommendation of the Peters Township Planning Commission that all land currently being farmed be zoned for estate lots (approximately 5-acre minimum lots). This would have a potential negative impact on the development of this property for residential use. [redacted] spoke in opposition at a Council meeting to the creation of estate lots on farmland as it would potentially negatively impact his property value if he were to sell to a developer.

Lastly, Pennsylvania's Agricultural Area Security Law (Act 43 of 1981, 3 P.S. § 901, *et seq.*) provides the following protections to farmland:

- **Local ordinances**. Landowners in an ASA are protected from local ordinances that would unreasonably restrict farm practices.
- **Condemnation**. ASA landowners receive protection from condemnation.
- **Easement eligibility**. Land must be enrolled in an ASA program to qualify for Pennsylvania's Agricultural Conservation Easement Purchase Program.

Peters Township previously worked with the Township farming community to create an Agricultural Security Area. The impetus for this was the desire of the Pennsylvania Turnpike Commission to acquire land for an expressway. Farms located in an Agricultural Security Area are afforded additional protection from condemnation by state and local government agencies. The Township eventually entered into an agreement that prohibited the Turnpike Commission from traversing the Township with an expressway, thereby protecting farmland throughout the Township.

The act that authorizes the creation of Agricultural Security Areas requires that they be reevaluated every seven years. The Township reached out to the members of the Agricultural Security Areas to determine their continued interest in the Agricultural Security Areas. At that time, there was no interest in doing so.

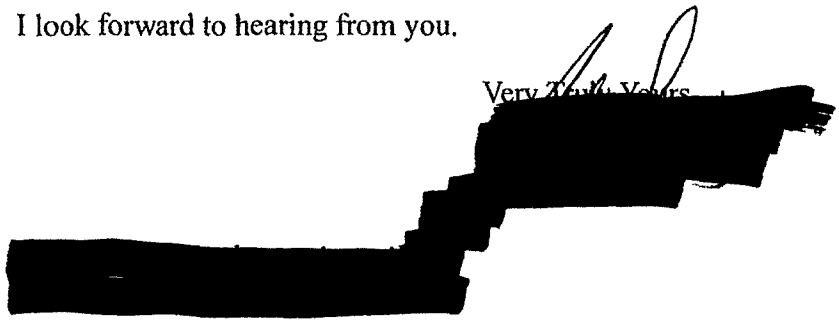
Peters Township would welcome [redacted] participation in the Washington County Farmland Preservation Board's conservation easement program. A program that allows landowners to retain their property while ensuring it remains permanently available for agriculture, sustaining the local economy, rural character, and future food security through dedicated partnerships between the Board and local farmers. Participation in the program would preserve the

farm in perpetuity. The proposed comprehensive plan suggests that the Township again attempt to form Agricultural Security Areas. This will occur in 2027.

Following your review of this letter, please contact myself or the Township Manager [redacted] so that we can coordinate a meeting to discuss our Ordinances, your opinion on compliance and ways that the Township can ensure that our farmers' operations remain viable while we continue to protect and preserve the constitutional rights and protections afforded to all other citizens and landowners in the Township.

I look forward to hearing from you.

Very Truly Yours,



cc: [redacted]