



June 20, 1996

Jonathan L. Healy, Commissioner
Department of Food and Agriculture
100 Cambridge Street
Boston, MA 02202

Re: Taxation of Land Subject to an Agricultural Preservation Restriction,
Chapter 780 of the Acts of 1977
Our File No. 96-01

Dear Commissioner Healy:

This letter presents a general statement of this Department's interpretation of the provisions of the Agricultural Preservation Restriction Act relating to the assessment of local property taxes. To the extent that more particular issues arise in this regard, we are always available to respond to inquiries from your office, landowners or local officials.

The Agricultural Preservation Restriction Act was enacted by Chapter 780 of the Acts of 1977 and is found in the General Laws as Chapter 132A, Sections 11A through 11D inclusive. Section 11D of the Act addresses the local taxation of restricted real estate, and expressly provides that land subject to an agricultural preservation restriction, while "actively devoted" to agricultural or horticultural uses as defined in Sections 1 through 5 of Chapter 61A of the General Laws, shall be assessed at values no greater than those determined in accordance with Section 10 of Chapter 61A, i.e., at the agricultural or horticultural "use" value.

In our view, land subject to an agricultural preservation restriction will qualify as "actively devoted" to agricultural or horticultural uses as defined in Chapter 61A provided the size, use and gross sales requirements set forth in Sections 1 through 5 of Chapter 61A are satisfied. Accordingly, while the restricted land continues to satisfy these requirements, i.e., remains "actively devoted" to farming, it will be entitled to be valued and assessed solely on the basis of its agricultural or horticultural "use" as prescribed in Chapter 61A.

For purposes of determining the agricultural use value of restricted land, the Agricultural Preservation Restriction Act expressly refers to Section 10 of Chapter 61A.

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COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF FOOD AND AGRICULTURE

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WILLIAM F. WELD
Governor

TRUDY COXE
Secretary

ARGEO PAUL CELLUCCI
Lt. Governor

JONATHAN L. HEALY
Commissioner

November 12, 1996

Dear Board of Assessors:

This letter is intended to serve as official notice that the properties shown on the attached list have been permanently protected for agricultural use through an Agricultural Preservation Restriction (APR) pursuant to Sections 11A through 11D of Chapter 132A and Section 31 through 33 of Chapter 184 of the Massachusetts General Laws.

Although the specific language in each of the APRs may vary, they all run in perpetuity and prohibit activities that will negatively impact the future agricultural viability of the restricted land. In addition, they limit use of the restricted land to agriculture related activities, although more recent APRs may allow for limited nonagricultural activities by "special permit" approval by this department. Finally, construction on restricted land in most cases requires this department's prior approval.

Section 11D of Chapter 132A of the General Laws states the "Land under agricultural preservation restriction, while actively devoted to agricultural, horticultural or agricultural and horticultural use as defined in sections one to five, inclusive, of Chapter sixty-one A, shall be assessed for general property tax purposes at values no greater than those determined by the methods and provisions of section ten of said Chapter sixty-one A." This means that APR protected land must be assessed on the basis of its current agricultural use. Attached is a letter from the Massachusetts Department of Revenue which further addresses this issue.

If you have any questions concerning APRs in your town, please do not hesitate to contact our Lancaster field office at the above address and phone number. We will keep you informed of additions to the attached list as they are acquired by this department.

Sincerely,

Richard K. Hubbard
Assistant Commissioner

cc: Conservation Commission
Building Inspector

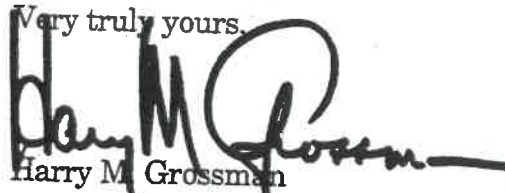
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This section requires that the land be valued solely on the basis of its agricultural or horticultural use, and that local assessors be guided by the list of ranges of value published annually by the Farmland Valuation Advisory Commission and by their personal knowledge, judgment and experience as to local land values. Consequently, the ranges of value published by the Farmland Valuation Advisory Commission are equally applicable when determining the value of farmland restricted under the Agricultural Preservation Restriction Act.

With respect to administrative matters, although reference is made in the Agricultural Preservation Restriction Act to certain sections of Chapter 61A, formal classification of restricted land under Chapter 61A is not required. Consequently, the requirements and provisions of Chapter 61A which are not specifically referred to in the Agricultural Preservation Restriction Act, such as the annual application requirement, the lien recording requirements and the conveyance and roll-back tax provisions, are not applicable to land subject to an agricultural preservation restriction. As previously mentioned, however, the Agricultural Preservation Restriction Act requires that the restricted land, while farmed, be assessed in accordance with the values prescribed by the F.V.A.C. for the various categories of crops and agricultural uses. Accordingly, an owner of agricultural preservation restriction land should annually provide the assessors with specific information as to the particular agricultural uses or crops upon the land and the acreage devoted thereto in the current year. The assessors, in turn, should use this information to determine and assign the appropriate values as recommended by the Farmland Valuation Advisory Commission for the various categories of agricultural land.

I hope this information proves helpful. If any questions remain after a review of the enclosed materials or additional clarification is required, please do not hesitate to write or call.

Very truly yours,



Harry M. Grossman
Acting Deputy Commissioner

HMG/jeb
encs.