

STATE OF MICHIGAN
COURT OF APPEALS

VILLAGE OF ROTHBURY,

Plaintiff-Appellee,

v

DOUBLE JJ RESORT RANCH, INC.,

Defendant-Appellant.

UNPUBLISHED

August 17, 2004

No. 246596

Oceana Circuit Court

LC No. 01-002610-CE

Before: Judges Whitbeck, CJ, and Owens and Schuette, JJ

PER CURIAM.

Defendant appeals as of right from the trial court's declaratory judgment; the court found that two of defendant's activities were not protected from local zoning laws by the Michigan Right to Farm Act (RTFA), MCL 286.471 *et seq.* This case arose when plaintiff sued to enjoin defendant from conducting agricultural and commercial activities on residentially zoned land located within the village limits. The trial court determined that while defendant's pumpkin patch and the corn harvested to feed defendant's horses were exempt from zoning because they complied with generally accepted agricultural management practices (GAAMPs), the use of the corn field as a maze available to the public and the rental of horses for recreational riding were not protected. We reverse.

Defendant first argues that because GAAMPs and the RTFA specifically provide that a riding stable is a farm operation and horse riding is a farm product, the RTFA exempts them from local zoning regulations. We agree.

Resolution of this issue rests on interpreting the RTFA. Statutory interpretation is a question of law that we review *de novo*. *Eggleston v Bio-Medical Applications of Detroit, Inc.*, 468 Mich 29, 32; 658 NW2d 139 (2003). The RTFA was enacted to protect farmers from nuisance suits. *Belvedere Twp v Heinze*, 241 Mich App 324, 331; 615 NW2d 250 (2000). Under the RTFA, a farm operation is defined in relevant part as follows:

(b) "Farm operation" means the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes, but is not limited to:

* * *

(vii) The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals. [MCL 286.472(b)(vii).]

And farm product is defined by MCL 286.472(c) in relevant part as “animals useful to human beings . . . and includes, but is not limited to . . . equine.” Under these definitions, horses are farm animals, and activities involving the use, handling, and care of farm animals qualify as a farm operation. Thus, defendant’s riding stables qualify as a farm operation. Moreover, the RTFA unambiguously provides that a local ordinance may not be enforced if it conflicts with any provision of the RTFA or GAAMPs developed pursuant to the act. MCL 286.474(6). GAAMPs are defined by the Michigan commission of agriculture. MCL 286.472(d). In the preface to the July 2003 edition of GAAMPs, the commission clearly indicated that it developed the 1995 GAAMPs for the care of farm animals in response to the RTFA. GAAMPs for the care of farm animals contain a provision specifically for horses, and indicate in relevant part as follows:

The equine industry in Michigan is large and diversified. Management systems include . . . boarding stables, pleasure horse operations and riding stables. Equine management systems include operations with only a few animals to those with several hundred on one premises. [GAAMPs at 19.]

* * *

Daily exercise could be in the form of . . . riding for at least 30 minutes per day. [GAAMPs at 22.]

Thus, defendant’s riding stables are not only provided for in the RTFA, they are also covered by GAAMPs. Therefore, the next question is to determine whether plaintiff’s ordinance conflicted with the RTFA or GAAMPs. MCL 286.474(6) provides:

Beginning June 1, 2000, except as otherwise provided in this section, it is the express legislative intent that this act preempt any local ordinance, regulation, or resolution that purports to extend or revise in any manner the provisions of this act or [GAAMPs] developed under this act. Except as otherwise provided in this section, a local unit of government shall not enact, maintain, or enforce an ordinance, regulation or resolution that conflicts in any manner with this act or [GAAMPs] developed under this act.

And MCL 286.473(1), (3) indicates that farming operations that conform to GAAMPs are not public nuisances, even when they change size, ownership, or the type of product produced. Hence, because an ordinance provision that only permits single family dwellings, playgrounds, and parks would prohibit farming operations, the ordinance provision conflicts with the RTFA and is unenforceable.

Defendant next argues that a corn maze is a farm product within the purview of the RTFA and exempt from plaintiff’s zoning laws. We agree.

A farm product is also defined as an agriculturally produced field crop that is useful to human beings. MCL 286.472(c). And a corn maze is agriculturally produced. Moreover, the definition of a farm product is not limited to agriculturally produced products that are edible. Notably, the definition also includes “flowers, seeds, grasses, nursery stock, trees and tree products . . . and other similar products.” *Id.* This indicates a Legislative intent to broadly define farm products to include products intended for use for pleasure. And a corn maze falls within this wide range of products used for pleasure. Furthermore, it is not possible to have a corn maze without raising a field of corn. Although no GAAMPs specifically address production of a corn maze, three separate GAAMPs – for manure management and utilization, for pesticide utilization and pest control, and for nutrient utilization – generally address the production of crops. The parties stipulated that defendant rotated its corn crop with other crops according to sound agricultural practices. And the GAAMPs for nutrient utilization specifically provides for rotating crops. GAAMPs at 10. Thus, because we conclude that the corn maze was a farm product, and plaintiff conceded that defendant produced the product according to GAAMPs, the maze fell within the protection of the RFTA and was exempted from the zoning ordinance.

Reversed.

/s/ William C. Whitbeck

/s/ Donald S. Owens

/s/ Bill Schuette