



Wisconsin
County Code
Administrators

April 20, 2009

Secretary Rod Nilsestuen
Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Dr.
Madison, WI 53718

Dear Secretary Nilsestuen,

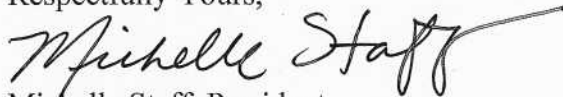
On behalf of the Wisconsin County Code Administrators, I am writing to you to express our strong concerns over some of the proposed revisions to Chapter 91, WI Statutes included in AB75. The WCCA is an organization of county planning, zoning and sanitary code enforcement professionals and represents the primary administration of the Farmland Preservation Program for the state. Our most significant concerns of the proposed revision are:

- The regulations limit the flexibility of local governments. The current ss. 91.71, which clarifies the purpose of exclusive agricultural zoning and establishes *minimum* requirements for a local ordinance, has been eliminated in the proposed revision. We strongly feel this section should be retained in order to support the continuation of more stringent farmland preservation standards by local governments and to clarify that these standards apply to those lands seeking enrollment in the tax credit program. As proposed, we fear there will be the unnecessary need for local governments to defend against costly legal challenges by interests who feel the statutory provisions control.
- The regulations are not integrated with existing statutes relating to land use and local governance. We strongly feel there should remain reference to the zoning authority as granted by other chapters of statute currently stated in ss. 91.73. The proposed Ch. 91 now grants separate zoning authority than that authorized under ss. 59.69, 59.692, 59.693, 59.964, 61.35, 62.23 or subch. VIII of Ch. 60. We strongly urge the retention of the current language in ss. 91.73 so as to avoid any confusion on the relationship between farmland preservation zoning authority and other zoning authorities.
- The regulations call for the immediate implementation of a conversion fee which would apply to landowners who have never been in the farmland preservation program and limit the flexibility of local governments to deal with nonfarm residences. We strongly feel the conversion fee outlined in the proposed ss. 91.48 should only apply after a new/revised farmland preservation plan and zoning ordinance has been certified under this revision. There is a significant amount of land currently zoned for agricultural preservation that has never been enrolled in the tax credit program. The current proposal would penalize landowners for the conversion of their land despite the fact they have not benefited from the program. Delaying the conversion fee until a revised plan and ordinance is certified will provide the necessary time to educate the public.

- The regulations would create additional regulations relating to non-conforming uses and structures that are inconsistent with existing statutes. The proposed ss. 91.42(3) will add another layer of unnecessary statutory language relating to nonconforming uses. Under the current ss. 91.75(2)(c), counties “may” exempt nonconforming residences which can be limited under ss. 59.69(10). But, under this revision, the flexibility is removed because there is no reference to ss. 59.69. Given the complex issues that surround nonconforming uses, any proposed revision to law should anticipate a minimal creation of nonconformities.
- The proposed agricultural enterprise area concept will result in a significantly diminished participation rate in non-zoned counties, thus reducing grant allocation and severely impacting the ability to promote conservation practices. We recommend eliminating the 10 per year cap for the first two years on establishing agricultural enterprise areas, eliminating any tie of LCD staffing grant allocation to participation in the program, and to re-define agricultural enterprise areas to be more geographically inclusive to allow scattered farms in rural counties to participate in the program.
- The residential density should be 35 acres reflecting current requirements and not differentiation between farm residences and non-farm residences. We recommend replacing the proposed residential density of 20 acres per residence with 35 acres per residence. Much of the state is already using 35 acres as a density and our concern is a 20 acre density would promote fractionalization of farmland. In addition, we recommend eliminating any attempt to differentiate farm residences and non-farm residences based upon occupancy, as occupancy can change over time thus creating a standard we would be incapable of regulating. Our position is that the focus should be on limiting residential development in agricultural preservation zones regardless on who may live in the residence.

We feel strongly that we must raise these concerns as the local administrators of the Farmland Preservation Program for the last 30 years. We are the professionals that have worked countless hours with farmers, landowners and local officials to develop, adopt and administer all of the plans, ordinances and agreements that are already in place. In like fashion, many of us have just contributed time and resources to sponsor several of the Working Lands workshops around the state. We are confident that these issues can be addressed and revised to make a more effective, efficient and equitable Working Lands Initiative without jeopardizing the much needed revision of Chapter 91. However, if our concerns relating to the planning and zoning sections in AB 75 cannot or will not be addressed during the budgetary process, we must advocate that these sections be removed from the budget bill, and the revision proceed through additional legislation or the administrative rule making process.

Respectfully Yours,



Michelle Staff, President
 Wisconsin County Code Administrators
 Jefferson County Planning & Zoning

cc: Joint Committee on Finance
 Representative Amy Sue Vruwink
 Senator Kathleen Vinehout
 Monica Groves- Batiza --Wisconsin Counties Association
 WCCA Executive Board