

AG LAW NEWS

A Newsletter of the PBA Agricultural Law Committee

August 1, 1999

PA Department of Revenue Office of Chief Counsel Interprets Special Use Valuation Rules.

On May 10, 1999, the Office of Chief Counsel issued an interpretation of the Inheritance and Estate Tax Act, Section 2122, 72 P.S. 9122, to the Board of Appeals. The opinion was requested as part of the analysis undertaken to make a determination on several pending appeals from Inheritance Tax assessments. The opinion is very narrow and concludes that the special use valuation rules do not apply where the real property is owned by a trust, partnership, or corporation. The opinion does not specifically address LLC's or LLP's but the opinion is likely to apply to those hybrid entities as well.

The opinion references cases from 1926, 1958, 1952 and 1939 to support its conclusion that a partner, shareholder and trust beneficiary do not own the land held by these entities, nor do they own an interest in the land owned by these entities.

Anyone having a case pending before the Board of Appeals or any level of court which involves this issue must be alert to the potential conflict between state and federal law. Once again, estate planning that is effective for federal purposes may be ineffective for Pennsylvania purposes. Even worse, it could have dire

consequences for Pennsylvania Inheritance tax purposes.

If you have one of these cases, please contact James R. Clark, Esq., James and Clark, PC, 1907 Division Highway, Ephrata, PA 17522.

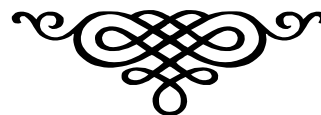
AG LAW FORUM

1999 Ag Law Forum Scheduled For Fall

The Pennsylvania Bar Institute has scheduled the 1999 Agricultural Law Forum for October 8, 1999. The theme for this year's programs will be the changing face of agriculture.

Topics being considered include a round table discussion of the forces joining to change the face of agriculture, environmental and land use planning laws, concentrated animal feeding operations, nutrient management, judicial interpretations of various "Right To Farm" laws and community response to the various perspectives involved in agriculture: community, agency and producer. Ethical considerations will also be addressed.

Anyone with questions or suggestions should contact John Becker at the Agricultural Law Research and Education Center located at the Dickinson School of Law.



Fall/Winter Committee Meeting Scheduled

The next meeting of the PBA Agricultural Law Committee will be held December 3, 1999. At the request of committee members, the length will likely be expanded to run from 9:15 to 12:00 instead of the 1.5 hours previously scheduled. Watch for mailings and e-mail about the location and for more details. If you have a topic of interest for which a guest speaker would be appropriate, please contact Emily Long Hoffman, Esq., Committee Chairperson, P.O. Box 11475, Harrisburg, PA 17108-1475.



Ag Law News is a publication of the PBA Agricultural Law Committee. It is published twice a year in August and February. Articles, announcements, etc. to be considered for publication should be submitted in both paper and 3.5 media to:

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New Sub-Committees Considered

In response to the growing work in the Ag Law area and the many burdens placed on the time of the Committee, a suggestion was made to create several sub-committees who would concentrate on certain specific areas. The new committees under consideration are:

Program/Meeting - will obtain speakers on "hot" topics for the two committee meetings.

Membership - will identify potential new members and encourage their participation.

Industry Group Delegates - will work to have committee members appointed to various ag related councils, etc. as formal representatives of our committee rather than ad hoc representatives.

Internship Programs/ College Relationship - will work to encourage students and schools to promote ag law as an option and to identify students

Clean and Green Interim Regulations Released

The June 19, 1999 issue of the Pa. Bulletin contain the interim regulations for the preferential assessment of real property commonly referenced as Clean and Green. The interim regulations address the situations under which all clean and green assessments within a municipality must be reassessed and those times where there is no mandatory reassessment.

Of particular concern are the areas where the municipality arbitrarily removed 1 or 2 acres from the clean and green assessment and imposed tax at the fair market value. Final regulations must still be issued and your comments will help determine the nature and tone of the final regulations.

A copy of the use-values issued on June 24, 1999 to County Assessors accompanies this newsletter.

Articles Needed!!

The newsletter cannot be published without the input and cooperation of each of the members of the committee. Please submit articles, announcements, solicitations for assistance on key issues, etc. to me for inclusion in the next newsletter. Submissions are due no later than January 1, 2000 and should be submitted in both print and PC file format (Preferably WordPerfect). The next newsletter is scheduled to be sent to members on March 1, 2000.



Important Numbers:

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Cases Discussed At Spring Committee Meeting

Horne v. Haliday, et al., Pa Superior Court, No. 324 Harrisburg 1998, Decision Filed March 30, 1999

Gillis, et al. v. Gratiot County, 29th Judicial Circuit, Michigan, No. 97-04351-AV, Decision Filed March 31, 1999

Pure Air Water, Inc. of Chemung County v. Davidsen, Supreme Court, Albany County, New York, Index # 2690-97, RJI #0197050565, Decision Filed May 25, 1999

City of Monterey v. Del Monte Dunes, US Supreme Court, No. 97-1235, Decision Filed May 24, 1999, 1999 U.S. Lexis 3631

