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Eric C. Stewart

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Hon. Dave Yost, Ohio Attorney General
Opinions Section
30 E. Broad St. 15th Floor
Columbus, OH 43215
Via email to OpinionsRequest@OhioAttorneyGeneral.gov

I am writing to request a formal opinion on behalf of my client, the Monroe Township Board of Trustees. I am seeking guidance as it pertains to statutory interpretation of R.C. 519.01 with respect to composting operations.

The Monroe Township Zoning Code is attached, along with the communication from the Ohio Environmental Protection Agency. As far as case law, *Marik v. KB Compost Services, Inc.* (Jan. 26, 2000), 9th Dist. No. 19393, at 11, appears to be directly on point.

I am requesting that your office issue an opinion which answers the following question:

1. If the majority of feedstock for a compost facility is produced entirely off-site and trucked into the township does that composting constitute "agriculture" if there is minimal farming activity at the property as defined or described by R.C. 519.01?
2. Can a township zoning code regulate all four classes of composting facilities as solid waste facilities under R.C. 3734.40 and Ohio Administrative Code Rule 3745-560-02 by considering such as "conditional use" if the zoning code does not explicitly address composting as a permitted or conditional use?
3. What recourse does Monroe Township have if a compost facility operator claims to be exempt from zoning as an "agricultural use" pursuant to R.C. 519.21 even though composting is not specified in that statute?
4. Does Monroe Township have any recourse if the Ohio Environmental Protection Agency issues a permit for a compost facility when a property owner fails to secure a zoning permit, conditional use, or variance?

As always, I appreciate your guidance and assistance.

Respectfully,


Eric C. Stewart, Logan County Prosecutor