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The Commonwealth of Massachusetts

*Department of Revenue
Division of Local Services*

*200 Portland Street
Boston 02114-1715*

January 13, 1989

David W. Flagg
Massachusetts Farm Bureau Federation, Inc.
P.O. Box K
15 Great Road
Bedford, MA 01730

Re: G.L. Chapter 61A - Necessary Related Land
Our File No. 88-772

Dear Mr. Flagg:

This is to acknowledge your recent letter requesting our opinion concerning the definition of "necessary related land" and the application of the provisions of G.L. Chapter 61A relating thereto.

The term "necessary related land" is oftentimes used when referring to land which is not actually cultivated but nonetheless qualifies as land considered to be "actively devoted" to farming for purposes of classification under G.L. Chapter 61A. This term is derived from a part of the statutory definition of land in agricultural or horticultural uses as set forth in Section 1 and Section 2 of Chapter 61A, which part refers more particularly to land

... "primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals and preparing them or the products derived therefrom for market" (Section 1)

or land,

"primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such products and preparing them for market."

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While the foregoing are the complete statutory definitions of necessary related land, the routine examples of such land generally include farm roads, ponds, waterways, sand and gravel pits for on-farm use and the land under farm buildings (but not the land under residences or buildings used for retail sales). If a question or controversy arises with respect to land used in a manner different than these examples, we would be happy to issue an opinion upon the submission of a written description of the use of, or activity upon, the subject land.

Secondly, you inquire as to how "necessary related land" should be treated in making determinations with respect to the qualification and classification of land under Chapter 61A. Land within the above definition of necessary related land should be considered to be in the nature of "productive" farmland, i.e. as if it were actually cultivated. Accordingly, in determining for initial qualification purposes whether there is a minimum of five acres of land devoted to agricultural or horticultural uses, such necessary related land must be counted as "productive". An illustration of the application of this provision is explained and diagrammed in the enclosed informational release pertaining to cranberry bogs. (Note that the necessary water and upland is considered to be in direct farm use, hence "productive".)

Likewise, necessary related land should be considered as "productive" when determining the base acreage for purposes of computing the gross sales requirement of Section 3. (Note that non-productive contiguous land is not included in the base acreage when computing the amount of gross sales required of the parcel.) In the cranberry bog illustration, therefore, the ten "productive" acres would require an annual gross sales amount of \$525 (\$500 for the first five acres, and \$5 for each one of the five productive acres in excess of the initial five acres.)

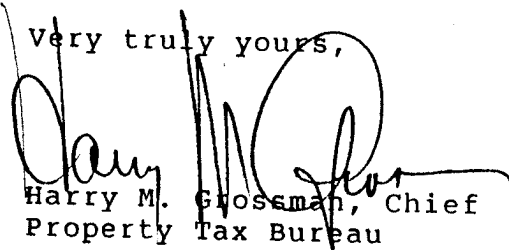
Finally, we would confirm that necessary related land should also be considered "productive" farmland when computing the base acreage for purposes of determining the allowable amount of non-productive, contiguous land which may qualify for Chapter 61A classification. In the cranberry bog illustration, the six necessary acres for water and upland are a component of the total of ten productive acres,

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and the ten productive acres would then support the inclusion of ten non-productive, contiguous acres in the classified area.

I hope this information proves helpful. If I can be of any additional assistance in the future, please do not hesitate to contact me directly.

Very truly yours,

A handwritten signature in black ink, appearing to read "Harry M. Grossman", written over the typed name and title.

Harry M. Grossman, Chief
Property Tax Bureau

HMG:jel
Enclosure