

## Publications

### Ohio Supreme Court Permits Agricultural Exemption to Local Zoning Regulation to Allow for a Barn to be Rented Out for Social Events

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On Tuesday April 21, 2020, the Ohio Supreme Court (the Court) ruled that the primary use of a barn, rented out for various social events, including weddings, was to facilitate the sale of wine cultivated and produced on the land.<sup>[1]</sup> This ruling permitted the property owner to take advantage of an agricultural exemption to local zoning regulations in order to rent out the barn for social events, despite the fact that the property is zoned for residential use.<sup>[2]</sup> Although the Court made it clear that facts will be evaluated on a case-by-case basis, the ruling provides guidance for property owners who want to take advantage of the agricultural exemptions to local zoning regulations outlined in section 519.21(A) of the Ohio Revised Code.

In *Litchfield Township Board of Trustees v. Forever Blueberry Barn, L.L.C.*, the Court determined that, to qualify for an agricultural exemption, proving what the primary use of a building or structure is will be more important than proving what the building or structure is used for the majority of the time. There, the Court recognized that, despite only 4% of the barn's overall space being used for the agricultural purpose of vinting and selling wine and the majority of the space being used as a rental, its primary purpose was agricultural.<sup>[3]</sup> The primary use was determined to be agricultural because renting the barn was conditioned on purchasing the property owner's wine, and therefore renting the barn contributed "to the barn's primary use of vinting and selling wine."<sup>[4]</sup>

The practical effect of the ruling, for property owner's seeking to take advantage of agricultural exemptions to local zoning regulations, is that buildings and structures can have multiple uses so long as the non-agricultural use furthers the agricultural use. The Court's ruling on Tuesday, builds on its 2011 ruling in *Terry v. Sperry*. There, the Court held that "[a] township may not prohibit the use of a property for vinting and selling wine if any part of the property is used for viticulture."<sup>[5]</sup> Read together, these cases provide property owners with a unique opportunity to capitalize on use of their land, by taking advantage of agricultural exemptions to local zoning rules.

If you have questions about the decision or your potential uses of your property and local zoning, please contact Tom Fusonie, Dan Shuey, Ted Smith or your regular Vorys attorney.

[1] Litchfield Township Board of Trustees v. Forever Blueberry Barn, L.L.C., Slip Opinion No. 2020-Ohio-1508, at ¶16.

[2] Id. at ¶2.

[3] Id. at ¶12.

[4] Id. at 15.

[5] Terry, 2011-Ohio-3364, ¶27.