November 12, 2002

The Honorable Thomas L. Sartini
Ashtabula County Prosecuting Attorney
Ashtabula County Courthouse
25 West Jefferson Street
Jefferson, Ohio 44047-1092

SYLLABUS: 2002-029

1. The holding of a banquet, reception, party at which entertainment is provided, theatrical show, music festival, clambake, pig roast, or other entertainment or special event constitutes the "marketing of agricultural products" for purposes of the definition of "agriculture" in R.C. 519.01 when the event is held to promote or merchandise the sale of grapes or wine and when the event occurs together with, and is of lesser importance or value than, the production of grapes or wine. Whether an event is being held to promote or merchandise the sale of grapes or wine and whether it occurs together with, and is of lesser importance or value than, the production of grapes or wine are questions of fact that must be answered on a case-by-case basis by township zoning officials.

2. Township zoning officials may consider any factors they deem necessary and relevant in order to determine in a reasonable manner whether an activity constitutes the marketing of agricultural products in conjunction with, and secondary to, the production of grapes or wine for purposes of the definition of "agriculture" in R.C. 519.01.

3. The farm market exemption set forth in R.C. 519.21(C) exempts from township zoning regulations the use of land for a farm market that conducts banquets, receptions, parties at which entertainment is provided, theatrical shows, music festivals, clambakes, pig roasts, and other entertainment and special events where fifty percent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year.

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OPINION NO. 2002-029

The Honorable Thomas L. Sartini
Ashtabula County Prosecuting Attorney
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25 West Jefferson Street
Jefferson, Ohio 44047-1092

Dear Prosecutor Sartini:

You have requested an opinion concerning the application of township zoning regulations to certain uses of land by property owners. You have indicated that property owners who are using their land for viticulture[1] and winemaking are conducting certain additional activities on their land. These additional activities include conducting banquets, receptions, parties at which entertainment is provided, theatrical shows, music festivals, clambakes, pig roasts, and other entertainment and special events.

In light of this practice, you have asked us to address the following questions regarding the applicability of township zoning regulations to the property owners' use of their land for these additional activities. For ease of discussion, we have rephrased and reordered your questions as follows:

1. Does the holding of banquets, receptions, parties at which entertainment is provided, theatrical shows, music festivals, clambakes, pig roasts, and other entertainment and special events constitute the use of land for the marketing of agricultural products in conjunction with, and secondary to, the production of grapes or wine for purposes of the definition of "agriculture" set forth in R.C. 519.01?

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[1] "Viticulture" is "the cultivation of vines **:** grape growing … a branch of agricultural science concerned with the culture and production of grapes esp. for wine and market." *Webster's Third New International Dictionary* 2559 (1993).

2. What, if any, factors should be considered in determining whether an activity constitutes the marketing of agricultural products in conjunction with, and secondary to, the production of grapes or wine for purposes of the definition of "agriculture" set forth in R.C. 519.01?

3. Does the farm market exemption set forth in R.C. 519.21(C) exempt from township zoning regulations the use of land for a farm market that conducts banquets, receptions, parties at which entertainment is provided, theatrical shows, music festivals, clambakes, pig roasts, and other entertainment and special events?

Your questions concern the authority of a township to zone the use of land and exceptions to the exercise of this authority. Let us, therefore, review initially the statutory provisions and legal principles that are relevant in that regard.

As a general matter, townships are vested with the authority to impose zoning restrictions. Specifically, R.C. 519.02 defines the general zoning authority of a township by setting forth a list of factors pertaining to the use of land that a township may regulate. This list of factors includes the location, height, bulk, number of stories, and size of buildings and other structures, set back building lines, sizes of yards, courts, and other open spaces, and the density of population. R.C. 519.02.

A township's zoning authority is not unlimited, however. As stated in *Yorkavitz v. Bd. of Twp. Trustees*, 166 Ohio St. 349, 351, 142 N.E.2d 655, 656 (1957), "[w]hatever police or zoning power townships of Ohio have is that delegated by the General Assembly, and it follows that such power is limited to that which is expressly delegated to them by statute." *Accord Bd. of Twp. Trustees of Bainbridge Twp. v. Funtime, Inc.*, 55 Ohio St. 3d 106, 563 N.E.2d 717 (1990) (syllabus, paragraph one); 1997 Op. Att'y Gen. No. 97-002 at 2-7.

R.C. Chapter 519 sets forth several significant exceptions to a township's exercise of its zoning authority. *See, e.g.*, R.C. 519.19; R.C. 519.21; R.C. 519.211. Your request concerns the exceptions for agricultural purposes and farm markets, which are set forth in R.C. 519.21(A) and R.C. 519.21(C), respectively.

R.C. 519.21(A) declares that, except as otherwise provided in R.C. 519.21(B),[2] R.C. Chapter 519 confers no power on any township zoning commission, board of township trustees, or board of zoning appeals "to prohibit the use of any land for agricultural purposes."

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[2] R.C. 519.21(B) permits a township to regulate, under certain circumstances, "[a]griculture on lots of one acre or less;" "[b]uildings or structures incident to the use of land for agricultural purposes on lots greater than one acre but not greater than five acres by: set back building lines; height; and size;" and "[d]airying and animal and poultry husbandry on lots

R.C. 519.01 defines "agriculture," as that term is used in R.C. 519.02-.25, as including the following:

> [F]arming; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production.

Accordingly, except as provided in R.C. 519.21(B), a township may not prohibit the use of any land for any of the agricultural purposes listed in R.C. 519.01. *See* 1993 Op. Att'y Gen. No. 93-053; *see also Mentor Lagoons, Inc. v. Zoning Bd. of Appeals of Mentor Twp.*, 168 Ohio St. 113, 119, 151 N.E.2d 533, 538 (1958); 1989 Op. Att'y Gen. No. 89-067 at 2-307; 1983 Op. Att'y Gen. No. 83-044 at 2-169; 1959 Op. Att'y Gen. No. 363, p. 209. *See generally Webster's Third New International Dictionary* 43 (1993) ("agricultural" means "of, relating to, or used in agriculture").

The second exception, which appears in R.C. 519.21(C), limits the scope of a township's general ability to zone the use of land for farm markets. This section states, in pertinent part, that R.C. Chapter 519[3] confers no power on township zoning officers "to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for a farm market where fifty [percent] or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year." R.C. 519.21(C) further states that a board of township trustees, as provided in R.C. 519.02, "may regulate such factors pertaining to farm markets as size of the structure, size of parking areas that may be required, set back building lines, and egress or ingress, where such regulation is necessary to protect the public health and safety." Thus, except for the four factors expressly listed in R.C. 519.21(C), a township is prohibited from regulating the use of land for a farm market where fifty percent or more of the gross income received from the market is derived from

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greater than one acre but not greater than five acres." You have informed us that your questions concern property "that is residentially zoned and that does not fall within the exception of R.C. 519.21(B)."

[3] "The farm market provisions of R.C. 519.21(C) open with the phrase '[s]uch sections,' which refers to R.C. 519.02 through R.C. 519.25 as cited in division (A) of R.C. 519.21." 1997 Op. Att'y Gen. No. 97-002 at 2-8 n.1.

produce raised on farms owned or operated by the market operator in a normal crop year.[4] *Accord Hambrecht v. Whiting*, No. 1032, 1983 Ohio App. LEXIS 12471 (Geauga County Jan. 14, 1983); *Bd. of Twp. Trustees v. Cornerstone P'ship*, No. 95 CV-H-11-403 (Ohio C.P. Delaware County Mar. 20, 1996) (unreported); 1997 Op. Att'y Gen. No. 97-002.

Under R.C. 519.21(C), the power of a board of township trustees to regulate farm markets is limited to "such factors … as size of the structure, size of parking areas that may be required, set back building lines, and egress or ingress." *Accord* 1997 Op. Att'y Gen. No. 97-002 at 2-9. The factors listed in R.C. 519.21(C) do not include what is sold at a farm market. As we explained in 1997 Op. Att'y Gen. No. 97-002 at 2-9, which considered whether a township could regulate factors in addition to those explicitly listed in R.C. 519.21(C):

> Several courts have held that *a township has no zoning authority to regulate what a farm market sells, except to require compliance with the gross income requirement of R.C. 519.21(C)*. *See Hambrecht v. Whiting*, No. 1032 (Ohio Ct. App. Geauga County Jan. 14, 1983) (unreported); *Board of Township Trustees v. Cornerstone Partnership*, No. 95 CV-H-11-403 (Ohio C.P. Delaware County Mar. 20, 1996) (slip op.). The townships in these cases had argued that markets selling nonagricultural products in addition to the owners' own produce could be regulated, even though fifty [percent] of the gross income of these markets was derived from sales of the owners' produce. The analysis in the opinions focuses on the meaning of the term "farm market;" there is no express discussion of the "such … as" clause. *It is implicit in the holdings, however, that the gross income requirement is the only permissible limitation on what can be sold at a farm market* and that no authority to regulate sales arises from the "such … as" clause. (Emphasis added.)

Accordingly, the zoning exemption available to farm markets under R.C. 519.21(C) requires only that "fifty [percent] or more of the gross income received from the market [be] derived from produce raised on farms owned or operated by the market operator in a normal crop year." R.C. 519.21(C) "does not articulate any requirements for the balance of the market's sales." *Bd. of Twp. Trustees v. Cornerstone P'ship*, slip op. at 3; *accord Hambrecht v. Whiting*; 1997 Op. Att'y Gen. No. 97-002. Consequently, a board of township trustees has no authority to regulate "what can be sold to make up the other fifty percent of gross sales" of a farm market. *Hambrecht v. Whiting*, No. 1032, 1983 Ohio App. LEXIS 12471, at *5; *accord Bd. of Twp. Trustees v. Cornerstone P'ship*; 1997 Op. Att'y Gen. No. 97-002.

Let us now turn to your first question, which asks whether the holding of banquets, receptions, parties at which entertainment is provided, theatrical shows, music festivals,

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[4] 1997 Op. Att'y Gen. No. 97-002 at 2-9 advised "that a township may regulate additional factors pertaining to qualified farm markets, provided that they are similar to the factors expressly listed in R.C. 519.21(C)."

clambakes, pig roasts, and other entertainment and special events constitutes the use of land for marketing of agricultural products in conjunction with, and secondary to, the production of grapes or wine for purposes of the definition of "agriculture" set forth in R.C. 519.01. The term "agriculture," as defined by R.C. 519.01, includes, *inter alia*, the "*marketing* of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production." (Emphasis added.)

The term "marketing," as used in R.C. 519.01, has not been statutorily defined or interpreted by any state or federal court. It is, however, a codified rule of statutory construction that "[w]ords and phrases shall be read in context and construed according to the rules of grammar and common usage." R.C. 1.42; *see* 1997 Op. Att'y Gen. No. 97-002 at 2-10.

Webster's Third New International Dictionary at 1383 defines "marketing" as "the bringing or sending of goods to market … an aggregate of functions involved in transferring title and in moving goods from producer to consumer including among others buying, selling, storing, transporting, standardizing, financing, risk bearing, and supplying market information." *See also Agritronics Corp. v. Nat'l Dairy Herd Ass'n, Inc.,* 94-CV-0066, 1994 U.S. Dist. LEXIS 14168, at *14 (N.D. N.Y. Sept. 22, 1994); *Firsdon v. Mid-American Nat'l Bank*, WD-96-009, 1996 Ohio App. LEXIS 5583, at *9 (Wood County Dec. 13, 1996), *appeal denied,* 78 Ohio St. 3d 1457, 677 N.E.2d 816 (1997). In addition, the United States Supreme Court has stated:

> The [Plant Variety Protection Act of 1970] does not define "marketing." When terms used in a statute are undefined, we give them their ordinary meaning. The Federal Circuit believed that the word "marketing" requires "extensive or coordinated selling activities, such as advertising, using an intervening sales representative, or similar extended merchandising or retail activities." We disagree. *Marketing ordinarily refers to the act of holding forth property for sale, together with the activities preparatory thereto* (in the present case, cleaning, drying, bagging, and pricing the seeds). The word does not require that the promotional or merchandising activities connected with the selling be extensive. One can market apples by simply displaying them on a cart with a price tag; or market a stock by simply listing it on a stock exchange; or market a house (we would normally say "place it on the market") by simply setting a "for sale" sign on the front lawn. *Indeed, some dictionaries give as one meaning of "market" simply "to sell." Of course, effective selling often involves extensive promotional activities, and when they occur they are all part of the "marketing."* But even when the holding forth for sale relies upon no more than word-of-mouth advertising, a marketing of goods is in process. (Citations omitted and emphasis added.)

Asgrow Seed Co. v. Winterboer, 513 U.S. 179, 187 (1995).

The term "marketing" thus commonly denotes the act of holding forth property for sale and the aggregate of activities involved with such act. *Id*. Further, activities associated with the

sale of property, and thus included within the definition of "marketing," include, *inter alia,* promoting and merchandising the sale of property. *See id.*; *Agritronics Corp. v. Nat'l Dairy Herd Ass'n, Inc.,* 94-CV-0066, 1994 U.S. Dist. LEXIS 14168, at *14; *Webster's Third New International Dictionary* at 1383.

In light of the meaning of the term "marketing," it reasonably follows that, if a banquet, reception, party at which entertainment is provided, theatrical show, music festival, clambake, pig roast, or other entertainment or special event is being held to promote or merchandise the sale of grapes or wine, such event constitutes the "marketing of agricultural products."[5] *See generally Craven v. Jackson County,* 308 Ore. 281, 285, 779 P.2d 1011, 1013 (1989) ("[w]ineries, which process the yield of vineyards, and tasting rooms, which accompany the winery to promote its product, are 'accepted farming practices' because they are 'customarily utilized in conjunction with' vineyards").

Whether an event is being held to promote or merchandise the sale of grapes or wine is a question of fact that must be answered on a case-by-case basis by township zoning officials. *See Bd. of Franklin Twp. Trustees v. Armentrout,* 2001 Ohio 8719, 2001 Ohio App. LEXIS 5660, at *4 (Portage County Dec. 14, 2001), *appeal denied,* 95 Ohio St. 3d 1422, 766 N.E.2d 162 (2002); *Hill v. Tate Twp. Bd. of Zoning Appeals,* Case No. CA96-01-003, 1996 Ohio App. LEXIS 3961, at *4-5 (Clermont County Sept. 16, 1996); *Bd. of Trustees of Allen Twp. v. Chasteen,* 97 Ohio App. 3d 250, 257, 646 N.E.2d 542, 546 (Ottawa County 1994); *Keynes Bros., Inc., v. Pickaway Twp. Trustees,* No. 86 CA 27, 1988 Ohio App. LEXIS 1028, at *11-12 (Pickaway County Mar. 25, 1988); 1980 Op. Att'y Gen. No. 80-058 at 2-229; 1962 Op. Att'y Gen. No. 3440, p. 949 (syllabus, paragraph two). *See generally* 1993 Op. Att'y Gen. No. 93-034 at 2-174 (it is not the function of the Attorney General to make factual determinations in zoning matters). In making this determination, these officials may consider any information or facts they deem necessary and relevant. *See generally State ex rel. Kahle v. Rupert,* 99 Ohio St. 17, 19, 122 N.E. 39, 40 (1918) (a public officer is required to exercise an intelligent discretion in the performance of his official duties). If township zoning officials determine that an event is being held to promote or merchandise the sale of grapes or wine, the event constitutes the "marketing of agricultural products."

Although township zoning officials may determine that an event is being held to promote or merchandise the sale of grapes or wine, and thus, constitutes the "marketing of agricultural products," such marketing is not "agriculture," as defined in R.C. 519.01, unless the marketing is conducted in "conjunction" with, and "secondary" to, the production of grapes or wine. R.C. 519.01. Neither the word "conjunction" nor "secondary" has been defined for purposes of R.C.

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[5] Grapes and wine are "agricultural products" for purposes of R.C. 519.01. *See generally* R.C. 519.01 (the term "agriculture" includes "viticulture," which concerns the production of grapes for wine and market, *see* note one, *supra*). *See generally also* R.C. 519.21(A); *Craven v. Jackson County,* 308 Ore. 281, 285, 779 P.2d 1011, 1013 (1989).

519.01. These words thus should be construed according to their common, ordinary meaning. R.C. 1.42; *see* 1997 Op. Att'y Gen. No. 97-002 at 2-10. A common meaning for the word "conjunction" is "occurrence together **:** concurrence esp. of events or routes." *Webster's Third New International Dictionary* at 480. The word "secondary," when used as an adjective, commonly denotes "of second rank, importance, or value **:** next below the first in grade or class … **:** of less than first value or importance **:** inferior, subordinate." *Webster's Third New International Dictionary* at 2050.

Under these definitions, any event that is being held to promote or merchandise the sale of grapes or wine must occur together with, and be of lesser importance or value than, the production of grapes or wine in order to constitute "agriculture," as defined by R.C. 519.01. If the land used for the holding of an event to promote or merchandise the sale of grapes or wine is not used for the production of grapes or wine, the event does not occur together with the production of grapes or wine, and thus, is not "agriculture," as defined by R.C. 519.01. *See generally* 1961 Op. Att'y Gen. No. 2280, p. 307 (syllabus) ("[w]here a district is zoned exclusively for agricultural under [R.C. 519.01-.02], sales of agricultural products may be made in the district provided such products are produced by the seller on the premises from which they are sold"). Also, if the event to promote or merchandise the sale of grapes or wine is of a greater value or importance than the production of grapes or wine, the event is not secondary to the production of grapes or wine, and thus, is not "agriculture," as defined by R.C. 519.01. *See generally Columbia Twp. Trustees v. French,* C.A. NO. 93CA005658, 1994 Ohio App. LEXIS 1497 (Lorain County Apr. 6, 1994) (where the principal use of the land is running the business of a sawmill, the sawmill could not qualify under an agricultural exemption).

The determination whether an event to promote or merchandise the sale of grapes or wine occurs together with, and is of lesser importance or value than, the production of grapes or wine is a question of fact that cannot be determined by means of an Attorney General opinion. *See* 1993 Op. Att'y Gen. No. 93-034 at 2-174. Instead, this question must be answered on a case-by-case basis by township zoning officials. *Id.* at 2-173 and 2-174. These officials may consider any information or facts they deem necessary and relevant when making this determination. *See generally State ex rel. Kahle v. Rupert*, 99 Ohio St. at 19, 122 N.E. at 40.

Accordingly, the holding of a banquet, reception, party at which entertainment is provided, theatrical show, music festival, clambake, pig roast, or other entertainment or special event constitutes the "marketing of agricultural products" for purposes of the definition of "agriculture" in R.C. 519.01 when the event is held to promote or merchandise the sale of grapes or wine and when the event occurs together with, and is of lesser importance or value than, the production of grapes or wine. Whether an event is being held to promote or merchandise the sale of grapes or wine and whether it occurs together with, and is of lesser importance or value than, the production of grapes or wine are questions of fact that must be answered on a case-by-case basis by township zoning officials.

Your second question asks whether there are any factors that should be considered in determining whether an activity constitutes the marketing of agricultural products in conjunction

with, and secondary to, the production of grapes or wine for purposes of the definition of "agriculture" set forth in R.C. 519.01. The General Assembly has not identified in R.C. Chapter 519 or elsewhere in the Revised Code the factors that township zoning officials should consider when making this determination.

Because the General Assembly has not set forth any factors for making this determination, "this determination will of necessity require an exercise of judgment in each particular instance." 1997 Op. Att'y Gen. No. 97-002 at 2-10. *See generally State ex rel. Hunt v. Hildebrant,* 93 Ohio St. 1, 11-12, 112 N.E. 138, 140-41 (1915) (in the absence of specific direction regarding the manner and method by which a public officer is to perform his statutory duties and responsibilities, the officer has the implied authority to exercise a reasonable discretion in carrying out those duties and responsibilities), *aff'd sub nom. State ex rel. Davis v. Hildebrant,* 241 U.S. 565 (1916). As such, township zoning officials when making this determination may consider any factors they deem necessary and relevant in order to exercise their judgment in a reasonable manner. *See generally State ex rel. Kahle v. Rupert*, 99 Ohio St. at 19, 122 N.E. at 40. Such factors may include, but are not limited to, the amount of money derived from, and time and resources devoted to, an activity and the overall production of agricultural products from the land, the primary purpose for holding an activity, and the principal use of the land and buildings on which the activity is conducted.

In addition, township zoning officials may consider the nature and character of all the other activities conducted on the land and the type and extent of any activities that are not conducted on the land to prepare the agricultural products for sale. These officials also may consider whether the activity is traditionally associated with the selling or production of agricultural products and whether the activity is a typical method by which to promote or merchandise the sale of goods.

Accordingly, in response to your second question, township zoning officials may consider any factors they deem necessary and relevant in order to determine in a reasonable manner whether an activity constitutes the marketing of agricultural products in conjunction with, and secondary to, the production of grapes or wine for purposes of the definition of "agriculture" in R.C. 519.01.

Your final question asks whether the farm market exemption set forth in R.C. 519.21(C) exempts from township zoning regulations the use of land for a farm market[6] that conducts banquets, receptions, parties at which entertainment is provided, theatrical shows, music festivals, clambakes, pig roasts, and other entertainment and special events. As explained

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[6] In common parlance, a "farm market" is a place where farmers gather to sell their produce and agricultural products to the general public. *The Random House Dictionary of the English Language* 699 (2d ed. 1987); *see People v. Shifrin*, 101 N.Y.S.2d 613, 616-17, 198 Misc. 348, 352 (Nassau County Ct. 1950), *rev'd on other grounds*, 301 N.Y. 445, 94 N.E.2d 724 (N.Y. Ct. App. 1950).

previously, except for the four factors expressly listed in R.C. 519.21(C) or factors that are similar to the factors listed therein, a township is prohibited from regulating the use of land for a farm market where fifty percent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. 1997 Op. Att'y Gen. No. 97-002. Moreover, a township has no authority to regulate what can be sold by a farm market to make up the other fifty percent of gross sales of the farm market. *Id.* at 2-9.

It follows, therefore, that under R.C. 519.21(C) the use of land for a farm market that conducts banquets, receptions, parties at which entertainment is provided, theatrical shows, music festivals, clambakes, pig roasts, and other entertainment and special events is exempt from township zoning regulations, so long as fifty percent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year.[7]

Based on the foregoing, it is my opinion, and you are hereby advised as follows:

1. The holding of a banquet, reception, party at which entertainment is provided, theatrical show, music festival, clambake, pig roast, or other entertainment or special event constitutes the "marketing of agricultural products" for purposes of the definition of "agriculture" in R.C. 519.01 when the event is held to promote or merchandise the sale of grapes or wine and when the event occurs together with, and is of lesser importance or value than, the production of grapes or wine. Whether an event is being held to promote or merchandise the sale of grapes or wine and whether it occurs together with, and is of lesser importance or value than, the production of grapes or wine are questions of fact that must be answered on a case-by-case basis by township zoning officials.

2. Township zoning officials may consider any factors they deem necessary and relevant in order to determine in a reasonable manner whether an activity constitutes the marketing of agricultural products in conjunction

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[7] In light of a 1994 amendment to R.C. 519.01, *see* 1993-1994 Ohio Laws, Part I, 1150, 1155-56 (Am. Sub. S.B. 134, eff. June 20, 1994), "some farm markets may now constitute an agricultural use which is totally exempt from zoning regulation under R.C. 519.21(A), if the use of particular land as a farm market is secondary to the use of that land for animal husbandry or agricultural production." 1997 Op. Att'y Gen. No. 97-002 at 2-8 n.3. The determination whether a farm market constitutes the use of land for an agricultural purpose that is completely exempt from township zoning regulations under R.C. 519.21(A) must be made on a case-by-case basis, taking into account the specific facts of each situation. *See Bd. of Trustees of Allen Twp. v. Chasteen,* 97 Ohio App. 3d 250, 257, 646 N.E.2d 542, 546 (Ottawa County 1994); *State v. Huffman,* 20 Ohio App. 2d 263, 269, 253 N.E.2d 812, 817 (Hancock County 1969).

with, and secondary to, the production of grapes or wine for purposes of the definition of "agriculture" in R.C. 519.01.

3. The farm market exemption set forth in R.C. 519.21(C) exempts from township zoning regulations the use of land for a farm market that conducts banquets, receptions, parties at which entertainment is provided, theatrical shows, music festivals, clambakes, pig roasts, and other entertainment and special events where fifty percent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year.

Respectfully,

BETTY D. MONTGOMERY
Attorney General