



STATE OF NEW YORK
DEPARTMENT OF AGRICULTURE AND MARKETS
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Office of the Commissioner

August 6, 2007

Robert Ransom
Rivendell Winery
714 Albany Post Road
New Paltz, NY 12561

RE: Rivendell Winery

Dear Mr. Ransom:

On July 11, 2007, the Department received your e-mail requesting an opinion pursuant to Agriculture and Markets Law (AML) §308, subdivision 4 as to whether the use of certain land for the production of grapes, the processing of such grapes into wine and the distribution and sale of the wine is considered "agricultural in nature." The evaluation of land uses under this provision is conducted on a case-by-case basis and in consultation with the Advisory Council on Agriculture.

In your e-mail, you indicate that Rivendell Winery has been a farm winery since the late 1980s. At one time, the winery grew up to 15 acres of French-American Hybrid grape varieties (Vidal Blanc, deChaunac, and Cascade). In 1992, a winter freeze destroyed most of the vines on the property and the vineyard was removed. Since 1995, Rivendell has rented the facility from different owners, and you indicate that the tentative relationship with the various owners did not justify the investment needed to replant the vines. However, you indicate that the winery recently purchased two parcels, consisting of approximately four acres, and you intend to move the operation to the new location.

You indicate that approximately one and one-half acres of vines will be planted on the two parcels of land that you own (four acres total); and that you plan to plant one to four acres of vines out of five acres of land that is leased and is contiguous to your property. You state that you are waiting for soil samples and evaluation results from Cornell Cooperative Extension to determine what steps you need to undertake to condition the soil now, and to determine what grape varieties you will plant in the spring; and that you expect to plant a cover crop for the winter. You also indicate that you are entering into a lease for an additional five acres of land located approximately one-half mile from the proposed winery. You state that the soils are currently being tested to determine that property's suitability for the production of various grape varieties.

In considering whether a particular land use is agricultural in nature, the Department takes into account the definition of "farm operation" contained in AML §301. A land use does not need to fall within the meaning of that term in order to be "agricultural in nature."

Examination of the definition is helpful, however, in considering the nature of a land use since it relates to agricultural activities. Included within the definition of "farm operation" (AML §301, subd. 11) are "[t]he land and on-farm buildings, equipment, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise." "Fruits," including "...apples, peaches, grapes, cherries and berries" are included in the definition of "crops, livestock and livestock products" in AML §301, subd. 2.b. The on-farm production, preparation and marketing of grapes are considered part of a farm operation. The Department considers agricultural commodities produced "on-farm" to include any products that may have been produced by a farmer on his or her "farm operation," which could include a number of parcels owned or leased by that farmer throughout a town, county, or the State.

As long as the wine that is prepared is composed predominantly of grapes produced on the farm, the processing and fermentation activity and the on-farm buildings and equipment which are needed to store and ferment the grapes which are processed on the farm are part of the farm operation. The on-farm marketing of the wine under these circumstances is also part of the farm operation.

Since Rivendell Winery is moving to a new location and the winery does not currently own a vineyard, the Department would evaluate the facility as a "start-up" farm operation. The Department reviews "start-up" farm operations on a case by case basis taking into account the specific facts of a situation. Start-up winery/vineyard operations often start out bringing in a large percentage of grapes and juice grown off the farm in order to develop a customer base and maintain income while the farm is growing its own varieties. It generally takes approximately five to six years for vines to begin producing grapes of a quantity needed to support the facility. If a percentage of on-farm products is required by a locality, allowing such farms a reasonable period of time to meet the percentage is reasonable.

Based upon the above described information provided by you, applicable law, and upon consultation with the Advisory Council on Agriculture, it is my opinion that the use of the land in question for the production of grapes, the fermentation of such grapes to produce wine and the retail sale of the wine, is agricultural in nature. These activities are, of course, subject to any State or federal requirements applicable to the processing, storage and sale of alcoholic products.

Sincerely,



Patrick Hooker
Commissioner of the Department of
Agriculture and Markets

cc: Advisory Council on Agriculture
Ulster County Agricultural and Farmland Protection Board