

Guidelines for Review of Local Laws Affecting Farm Worker Housing

Farm worker housing, including mobile homes (also known as “manufactured homes”), is an integral part of numerous farm operations. Farmers often provide on-farm housing for their farm laborers to, among other things, accommodate the long workday, meet seasonal housing needs and address the shortage of nearby rental housing in rural areas. The use of manufactured or mobile homes for farm worker housing is a common farm practice. Manufactured or mobile homes provide a practical and cost effective means for farmers to meet their farm labor housing needs. The term “on-farm buildings” includes farm labor housing, including manufactured housing, used for the on-farm housing of permanent and seasonal employees, and is therefore subject to the protection of Agriculture and Markets Law (AML) §305-a.¹

Generally, in evaluating the use of farm labor housing under §305-a, the Department considers whether the housing is used for seasonal and/or full-time employees and their families; is provided by the farm operator (irrespective of whether the operator owns or rents the farm for the production of agricultural products); whether the employee to be housed is engaged in the production function(s) of the farm operation and is not a partner or owner of the farm operation. The Department does not consider the primary residence of the owner or partner of the farm operation to be protected under §305-a.

The degree of regulation of farm worker housing that is considered unreasonable depends on the number of units, size of the structure(s) and the complexity of the housing to be provided. A requirement to apply for a permit is generally not unreasonable. Depending upon the size and complexity of the structure(s) to be built or the number of units to be sited on a farm, a site plan review requirement may be reasonable. The Department urges local governments to take into account the size, complexity and number of units of housing required by the farm operation when setting and administering such requirements. For example, the Department has not considered the need to undergo site plan review, where more than two mobile homes are sited on the same farm complex, unreasonable. However, conditions placed upon the issuance of a permit and/or the cost and time involved to complete site plan review requirements may be unreasonable.

In some cases farmers should exhaust their local administrative remedies and seek, for example, certain permits, exemptions available under a local law or area variances, before the Department reviews the administration of a local law. However, an administrative requirement/process may, itself, be unreasonably restrictive. The Department evaluates the reasonableness of the specific requirement/process, as well as the substantive requirements imposed on the farm operation. Local laws which the Department has found not to be unreasonably restrictive include those which regulate the health and safety aspects of the construction of farm buildings through provisions to meet local building codes or the State Uniform Fire Prevention and Building Code (“Uniform Code”) [unless exempt from the Uniform Code under Building Code §101.2(2) and Fire Code §102.1(5)] and Health Department requirements for potable water and sewage disposal. Requirements for local building permits and certificates of occupancy to ensure that health and safety requirements are met are also generally not unreasonably restrictive.

¹ The Department’s interpretation was upheld in *Town of Lysander v. Hafner*, New York Court of Appeals, 96 N.Y.2d 558 (October 18, 2001).

Some municipalities have developed reasonable requirements to ensure that farm labor housing is used only for legitimate farm employees; is removed if it is not used for its intended purpose; and is periodically reviewed for compliance.

The following are some of the specific matters that the Department considers when reviewing a local law that affects farm worker housing:

A. Minimum Dimensions

Establishing minimum square foot dimensions and/or floor space has been determined to be unreasonably restrictive in certain instances. Many mobile homes used for farm labor housing have outside dimensions of 14 feet by 70 feet (i.e., 980 square feet). Older model manufactured housing may have lesser square foot dimensions, however. To address this concern, a municipality may elect to not establish a minimum square foot requirement for farm worker housing on a farm operation within a State certified agricultural district.

B. Lot Size

Requiring a minimum lot size exceeding 10,000 to 15,000 square feet may be unreasonably restrictive. A farmer may be unable to meet such a minimum lot size due to the configuration of the land used for production or lying fallow as part of a conservation reserve program. The need to be proximate to a water supply, sewage disposal and other utilities is also essential. Farm worker housing is usually located on the same property which supports other farm structures. Siting farm labor housing very near other farm structures, such as a barn or milking parlor, is important for ease of access and for security purposes. Presumably, minimum lot size requirements are adopted to prevent over concentration of residences and to assure an adequate area to install a properly engineered well and waste disposal system. Farm worker housing should be allowed to be sited on the same lot as other agricultural use structures subject to the provision of adequate water and sewage disposal facilities and meeting minimum setbacks between structures.

C. Setbacks

Minimum setbacks from front, back and side yards have not been viewed as unreasonable unless a setback distance is unusually long. Setbacks that coincide with those required for other residential structures have, in general, been viewed as reasonable.

D. Screening

A requirement to screen farm labor housing from view has been found by the Department to be unreasonable. Screening requirements suggest that farm worker housing is, in some way, objectionable or different from other forms of residential housing that do not have to be screened. Farmers should not be required to bear the extra costs to provide screening unless screening is required to address a threat to the public health or safety or is shown to be necessary due to special local conditions.

E. Compliance with HUD Standards

A requirement that mobile homes constructed before June 1976 comply with HUD construction and safety standards may be unreasonably restrictive. Manufactured homes do not need to meet current HUD standards to be safe and fit for human occupancy. The adoption of the federal standards does not mean that manufactured homes constructed prior to their

promulgation (June 1976) are unsafe or unfit for human occupancy, any more than a conventional unit built prior to the application of a local building code or the State Uniform Fire Prevention and Building Code can be considered unsafe. The Uniform Code provides that manufactured homes constructed before June 15, 1976 need not be built in accordance with HUD standards and have a certifying label and data plate if they have been inspected to determine that they are structurally sound and free of heating and electrical system hazards [Residential Code of New York State, AE 102.6]. Manufactured homes as part of a farm operation should be allowed to meet either the HUD standards or pass inspection as provided in Residential Code, AE 102.6.

F. Removal of Farm Labor Housing if Unoccupied

Requiring farm labor housing be immediately removed from a site upon cessation of its use by the farm operation or if a farm operation stops producing an agricultural crop may be unreasonable. Housing may be used only seasonally. In addition, unforeseen circumstances, such as a change in a farm operation due to a death in the family or a change in ownership, may prevent such housing from being used within a given year. Some municipalities require the removal of farm labor housing if it has not been used for such purposes for three years. Such a requirement is reasonable and takes into account changes in farm circumstances.

G. Sharing of Farm Labor and Housing

Farmers may, under certain circumstances, share farm labor and housing to provide full employment to farm workers throughout the growing season. This helps ensure that labor needs are met and workers do not leave the area for other employment opportunities. There should be some flexibility in a local law to accommodate the sharing of farm labor and/or housing. The Department considers the facts of a particular case in making a determination whether a local law is unreasonably restrictive, but generally would view a requirement that workers be employed or used more than 51 percent of the time by the farm operation where the housing is located as reasonable.