



JOHN A. OLSZEWSKI, JR.  
County Executive

JAMES R. BENJAMIN, JR., *County Attorney*  
*Office of Law*

July 20, 2020

The Honorable Paul Pinsky  
Chairman  
Education, Health & Environmental Affairs Committee  
Maryland Senate  
11 Bladen Street, 2 West Wing  
Annapolis, Maryland 21401

The Honorable Kumar P. Barve  
Chairman  
Environmental and Transportation Committee  
Maryland House of Delegates  
6 Bladen Street, Room 251  
Annapolis, Maryland 21401

Dear Chairman Pinsky and Chairman Barve:

County Executive John A. Olszewski, Jr. is in receipt of your April 27, 2020 letter regarding concerns raised by members of the community along Broadway Road about the presence of a hemp farm. The County Executive asked me to respond on his behalf.

In your respective letters, you argued the matter of where hemp farms should or should not grow the plant is primarily a local zoning issue, and you requested Baltimore County consider zoning regulations which balance hemp farmers' rights against residents' rights to live in their homes without being impacted by the strong odor produced by the hemp plant.

The County Executive is sympathetic to the community's concerns and would like to see this matter resolved; however, Baltimore County does not have the legal authority to adopt regulations which would invalidate agricultural activity licensed by the State of Maryland.

The Maryland Department of Agriculture ("Department") issues licenses to grow and produce hemp. *See* MD. CODE ANN., AGRIC. §§ 14-101 *et seq.*; *see also* COMAR 15.01.16.03. The Department has issued a license to the farm in question.

Maryland's Court of Appeals has held that rights continue after a change in zoning laws when there has been a commencement of physical construction in good faith pursuant to a valid permit. *See O'Donnell v. Bassler*, 289 Md. 501, 508 (1981); *see also Sykesville v. West Shore Communications, Inc.*, 110 Md. App. 300, 305 (1996). In this situation, because the Department

has issued a license to the farm, the farm would have a right to operate notwithstanding any subsequent changes to the County's zoning laws. Further, changes to the County's zoning laws could be seen as a regulatory taking which denies the reasonable expected use and economic value of the farm land.

The Baltimore County Council passes zoning laws, and as a result, the County Executive cannot act unilaterally in this area. While Baltimore County cannot adopt a change which would solve the problem you identified, the County Executive has asked me to forward your correspondence to the Council Chair for consideration in the context of prospective changes.

Again, the County Executive is sympathetic to the community's concerns, but Baltimore County does not have the legal authority to resolve this matter at this time. The County Executive welcomes the opportunity to work with you, members of the Baltimore County delegation and the Baltimore County Council, as well as other interested parties, to develop a legally permissible path forward here.

Very truly yours,



James R. Benjamin, Jr.  
County Attorney

cc: The Honorable Kathy Klausmeier  
The Honorable Shelly Hettleman  
The Honorable Lisa BelCastro  
The Honorable Jon Cardin  
The Honorable Dana Stein  
The Honorable Pat Young  
The Honorable John A. Olszewski, Jr.  
The Honorable Cathy Bevins  
The Honorable Izzy Patoka  
Thomas H. Bostwick  
Stacy L. Rodgers  
Andrew G. Vetter  
Patrick H. Murray  
Charles R. Conner, III  
Kimberly S. Routson