

**BEFORE THE BOARD OF ZONING APPEALS OF BAINBRIDGE TOWNSHIP, GEAUGA
COUNTY, OHIO**

In Re: Appeal of Zoning Inspector's)
Interpretation and Administration of)
Zoning Resolution in October 25,)
2019 Letter and November 7, 2019)
Revocation of Zoning Certificate)
directed to Kelly's Working Well)
Farm d/b/a Chagrin Valley School)

NOTICE OF APPEAL OF ZONING INSPECTOR'S INTERPRETATION AND
ADMINISTRATION OF ZONING RESOLUTION AS APPLIED TO KELLY'S WORKING WELL
FARM D/B/A CHAGRIN VALLEY SCHOOL

NOW, Kelly's Working Well Farm d/b/a Chagrin Valley School ("Chagrin Valley School," "CVS" or "Nonprofit"), by and through its counsel, files this Notice of Appeal of Zoning Inspector's Interpretation and Administration of Zoning Resolution As Applied to Kelly's Working Well Farm d/b/a Chagrin Valley School. In support, Chagrin Valley School states as follows:

PARTIES

1. Kelly's Working Well Farm was incorporated as an Ohio nonprofit corporation on December 26, 2012, with the following purpose: "to create a small scale, diversified educational farm based on permaculture principles that would serve as a model of sustainable, community-based agriculture, while teaching about and providing food and other products to

the community.” *See* Initial Articles of Incorporation, Exhibit A. It has operated according to that purpose since 2012 and continues to do so. Kelly’s Working Well Farm has a principal place of business at 16519 South Franklin Street, Chagrin Falls, Ohio 44023 and a mailing address of 16495 South Franklin Street, Chagrin Falls, Ohio 44023. Kelly’s Working Well Farm is located within Bainbridge Township.

2. In 2018, Kelly’s Working Well Farm registered a trade name of Chagrin Valley School. The nature of the business, remaining unchanged for its trade name registration from the Initial Articles of Incorporation, are stated as “agriculture and education.” *See* Trade Name Registration, Exhibit B. Kelly Clark owns and operates Chagrin Valley School. Ms. Clark and Mr. William Rowe own the land where Kelly’s Working Well Farm operates.

3. Bainbridge Township is an Ohio Township within Geauga County, Ohio with offices located in the Bainbridge Town Hall, 17826 Chillicothe Road, Chagrin Falls, Ohio 44023. The Township has both Fire and Zoning Departments. The Township administers its Zoning Resolution and associated building standards pursuant to the authority given to it by the State in Title 5 of the Ohio Revised Code. ORC § 501, *et. seq.*

JURISDICTION

4. Pursuant to Bainbridge Township Zoning Resolution § 117.09(b), the Board of Zoning Appeals has jurisdiction over appeals “concerning interpretation or administration of [the Bainbridge Township] Zoning Resolution” by any aggrieved person.

5. Chagrin Valley School is an aggrieved person because the Township Zoning Inspector interpreted the Zoning Resolution to require that CVS obtain a conditional use zoning certificate for a private school as communicated to Ms. Clark in an October 25, 2019 letter. In

addition, Chagrin Valley School is an aggrieved person because the Zoning Inspector revoked Zoning Certificate Number 15454 for the farm on November 7, 2019.

6. Specifically, Appellant is aggrieved because Bainbridge Township does not have authority to regulate agriculture as well as the educational, recreational and cultural programming operations and building uses conducted as “agritourism” at Chagrin Valley School.

7. Consideration of the Zoning Inspector’s interpretation of the Zoning Resolution by this Board is necessary because the Township’s Zoning and Fire Departments have gravely interfered with the lawful operation of Chagrin Valley School’s farming and agritourism activities at the farm and have illegally shut down her farm and agritourism operations without any legal authority to do so. Plaintiff’s agricultural rights, property rights, status and contractual relationships are affected by the Township’s actions.

FACTUAL BACKGROUND

8. On July 12, 2012, Ms. Clark and Mr. William Rowe purchased a 6-acre parcel of land in Bainbridge Township located at 16519 S. Franklin Street, Chagrin Falls, Ohio 44023.

9. On December 26, 2012, Ms. Clark incorporated Kelly’s Working Well Farm as an Ohio nonprofit corporation on December 26, 2012, “to create a small scale, diversified educational farm based on permaculture principles that would serve as a model of sustainable, community-based agriculture, while teaching about and providing food and other products to the community.” *See* Initial Articles of Incorporation, attached as Exhibit A. The goal of the Farm is to create a “place where community members could come to learn about sustainable

agriculture, make crafts using natural materials, and connect with animals and nature just minutes away from downtown Chagrin Falls.” See Chagrin Valley School’s website, *available at* <https://chagrinvalleyschool.org>. The nonprofit describes itself as a “501(c)(3) school, community center and permaculture farm.” *Id.*

10. On August 1, 2018, Kelly’s Working Well Farm registered a trade name of “Chagrin Valley School” with the Secretary of State, which mirrored the purposes stated in the Initial Articles of Incorporation for the Farm: “agriculture and education.” See Exhibit B. The nature of the business remained unchanged with the filing of a trade name registration, but allowed the nonprofit to effectively market its full-time, self-directed educational farm-immersion programming for children ranging from 5-18 years old. The goal of the educational programming for children is to allow homeschool-registered children a place that encourages learning through the everyday experience of a permaculture farm environment.

11. The Chagrin Valley School operates as a farm that regularly engages in agritourism by charging a fee for its educational activities to participants. The Chagrin Valley School’s agritourism educational activities are largely governed by the principles of permaculture farming and democratic decisionmaking.

12. Chagrin Valley School is not certified by the State of Ohio as a private school and has no interest in offering state-approved courses of instruction to participants in its educational programming at the farm.

13. CVS also provides the farm environment as a recreational environment for yoga instruction for a fee as part of its agritourism operations.

14. The business revenues of the nonprofit farm include sales of products from the farm; grants and donations; fees for participation in organized educational, recreational and cultural programming for members of the public; and, in the next year, fees from a Farmers' Market. The nonprofit has several staff members who are paid through these revenues.

15. After approximately seven (7) years of operation on September 24, 2019, Fire Inspector William J. Lovell stopped by Kelly's Farm because, as he indicated to Ms. Clark, he had not seen the place before and happened to stop by. Mr. Lovell asked numerous questions about whether the nonprofit was a school or a daycare center.

16. Later the same day as Mr. Lovell's impromptu visit, the State Fire Marshall, Fire Inspector and Bainbridge Township Zoning Inspector visited the farm and asked for a "tour." The Fire Marshall and Zoning Inspector stated some concerns about fire and electrical safety and licensing, but did not issue a report or take any further action. The only guidance provided by the local officials to Ms. Clark after the tour was that she needed a "license."

17. In about a week after the local officials toured the Farm, Ms. Clark contacted an electrician who came out and reviewed the needs to upgrade the Farm. Subsequently, the electrician attempted to obtain authorization from the Township to conduct necessary electrical upgrades to the farm, but was unable to receive necessary permits because of the status of Chagrin Valley School as a farm, which does not have associated building standards that the Township could apply.

18. Ms. Clark called Mr. Lovell on several occasions to attempt to determine what she needed to do to acquire a "license" in accordance with the Township officials' concerns.

19. On October 17, 2019, without any warning, the Ohio Department of Job and Family Services stopped by the Farm and looked around.

20. On October 18, 2019, Ms. Clark called Mr. Lovell to update him on the ODJFS site visit. He did not answer, but stopped by the Farm later that day. Mr. Lovell indicated that he had talked to the Ohio Department of Education to try to help Ms. Clark determine what licensing might be required for Chagrin Valley School. He also indicated that Ms. Clark should have an electrician come out and that he would help her get the permit for electrical work at the farm.

21. On the same day, October 18, 2019, Mr. Lovell asked Ms. Clark to contact the “Educational Resources Center” to determine if that is the entity that should license Chagrin Valley School to operate.

22. Throughout the series of conversations with Mr. Lovell, Ms. Clark understood that the reason Mr. Lovell was seeking the proper entity to license the Farm’s operations was for the purpose of determining what building, fire and other locally-enforced standards to apply to the Nonprofit’s operations. On several occasions, Mr. Lovell indicated that there might be something agricultural in the law that may help Ms. Clark.

23. On October 23, 2019, Ms. Clark called Mr. Lovell to tell him what she found out from ODJFS and see what he had found out about licensing issues. In that call, it became clear to Ms. Clark from the tone and demeanor of Mr. Lovell that he was no longer willing to help. During the call, Mr. Lovell told Ms. Clark to contact the zoning office immediately because they were waiting for her.

24. Later that same day, Ms. Clark called the Township Zoning Inspector to determine what she needed to do to satisfy the local officials. The Zoning Inspector stated that she could not meet on Thursday, October 24, because she would be alone at the office and asked Ms. Clark to come in to the Township office on Friday, October 25, to meet.

25. On October 25, 2019, upon Ms. Clark's arrival to the Township Offices, the Zoning Inspector was in her office with Mr. Lovell. Ms. Clark was asked to join them in another large room and was handed a letter. *See* October 25, 2019 Letter from Township Zoning Inspector, attached as Exhibit C. Without looking at the letter, Ms. Clark asked the Zoning Inspector many questions about the necessary process for licensure and answered the Zoning Inspector and Mr. Lovell's questions about CVS' operations for approximately an hour. The local officials pushed Ms. Clark to state that her nonprofit was a school, but Ms. Clark explained that the educational programming at the Farm has no set curriculum and that the operation is not really a school.

26. During the conversation at the Township office, Mr. Lovell stated that he was planning to attend an agritourism conference in a week and that there may be something helpful that he learns at that conference that he could share with Ms. Clark.

27. After an hour, the Zoning Inspector showed Ms. Clark the letter and stated that Ms. Clark must cease operations until a conditional use permit was obtained for the use of the farm property as a school. Stunned, Ms. Clark asked when she had to cease operations. The Zoning Inspector responded that operations had to cease immediately.

28. Mr. Lovell closed the October 25, 2019, meeting by stating that he plans to come out to the farm again next Thursday and will make a list of all the things Ms. Clark needs to do.

29. Ms. Clark informed the current participants in the Chagrin Valley School program that the Township would not allow continued operations at the Farm until a conditional use permit was secured. As an alternative from operating at the Farm, Ms. Clark and the staff of the nonprofit continued their immersive educational programming in other off-site natural areas.

30. On October 31, 2019, Mr. Lovell called Ms. Clark around noon to state that he was at the Farm with other people who could answer her questions. Ms. Clark arrived about a half an hour later to find personnel from the police, fire, public health, zoning and building departments at her property. Overwhelmed, Ms. Clark, who was alone, stated that she didn't feel comfortable with their presence and would like to reschedule for a time when she could be accompanied.

31. On November 1, 2019, counsel for Kelly's Farm hand-delivered a letter to both the Township Zoning Inspector's office and the County Prosecuting Attorney stating that the Zoning Inspector's October 25, 2019, request that the farm "[p]lease cease operation...until such time that all the appropriate permitting and licensing have been obtained" far exceeds the limited authority granted to Townships and Counties by the State of Ohio and that the Nonprofit was restarting its operations upon delivery of the letter. *See* November 1, 2019, Chagrin Valley School Letter in Response to Zoning Inspector, attached as Exhibit D. The letter also requested that the County Prosecuting Attorney instruct her clients to direct their communications to Chagrin Valley School's legal counsel instead of directly contacting Ms. Clark.

32. On November 6, 2019, at approximately 3:00 pm, Mr. Lovell directly called Ms. Clark's cell phone. Ms. Clark handed the cell phone to her legal counsel.

33. Mr. Lovell stated that he was calling to reschedule his site visit and didn't know anything about a letter from Chagrin Valley School's legal counsel.

34. CVS' counsel responded to Mr. Lovell that she would like to attend the next site visit and was unavailable on the proposed date of November 7, 2019. Mr. Lovell responded that he would contact his counsel to see what he needed to do and would need to reschedule with the State Fire Marshall.

35. Without any further communication, on November 7, 2019, Mr. Lovell, the Township Zoning Inspector, the State Fire Marshall, and personnel from Geauga Public Health appeared at Chagrin Valley School with an Administrative Warrant issued at 12:07 pm on November 6, 2019, several hours prior to Mr. Lovell's direct call to Ms. Clark. *See* Administrative Warrant, attached as Exhibit E.

36. An Affidavit, attached as Exhibit F, providing sworn testimony of Mr. Lovell is attached to the Warrant that states the following information, the first of which had not been previously known to Ms. Clark and the second of which she never stated to Mr. Lovell:

- a. "On September 23, 2019, the Fire Department received a complaint of potentially significant fire safety concerns at a school operating on the premises known as Kelly's Working Well Farm, d/b/a Chagrin Valley Schools...."
- b. During his September 24, 2019, site visit, "Ms. Clark indicated that...she runs a private school...."

37. During the inspection on November 7, 2019, the local officials mandated that children present at Kelly's Farm stay in ambulances called by the local officials. The children were held by the officials for over three (3) hours.

38. On November 7, 2019, the Township Zoning Inspector delivered a "Revocation of Zoning Certificate" to Ms. Clark stating that "zoning certificate number 15454 issued at 16519 Franklin St. on May 13, 2016 for a 34' x 26' barn/accessory structure is hereby revoked and declared null and void. Said certificate has been revoked for the following reason(s): Per Chapter 109.07(a)(4) of the Bainbridge Township Zoning Resolution, 'The work or use is not being conducted in accordance with the approved application and plans.'" *See* Revocation of Zoning Certificate, attached as Exhibit G.

39. On November 8, 2019, the State Fire Marshall scheduled another meeting with Ms. Clark. During the meeting, the State Fire Marshall delivered a Serious Hazard Order requiring compliance with "portions of the OAC (1301:7-7-01 through 1301:7-7-80), including, as required by the Fire Code Official, not occupying and/or allowing occupancy of [Kelly's Working Well Farm], until the SERIOUS HAZARD is abated by taking the following actions: Do not occupy or allow occupancy of any structure until removal and/or successful mitigation the all *[sic]* hazardous conditions have been completed and are in compliance with the Ohio Fire Code." *See* SERIOUS HAZARD ORDER, attached as Exhibit H. The order was taped to each structure at Kelly's Farm. A formal citation was issued by Mr. Lovell on November 9, 2019. *See* Citation, attached as Exhibit I.

40. On November 10, the County Prosecuting Attorney sent an electronic version of the citation and a “Warning” from Geauga Public Health related to their observations of the facilities kitchen. *See* Warning, attached as Exhibit J.

41. During the November 8, 2019, delivery of the Serious Hazard Order, when asked if the order required that the owners of the farm refrain from occupying the buildings, the State Fire Marshall responded that there was no problem with the owners and their guests occupying the buildings. Mr. Lovell and the State Fire Marshall stated that the fire officials had no problem with the farm activities at Kelly’s Farm.

ARGUMENT

Chagrin Valley School operates a farm that regularly engages in agritourism, which are both activities exempt from township zoning authority and, therefore, exempt from the standards being applied by the Township Fire Department, State Fire Marshall and Geauga Public Health.

42. Ohio’s General Assembly explicitly withheld power from township zoning commissions, boards of township trustees and boards of zoning appeals “to prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located...and no zoning certificate shall be required for any such building or structure.” R.C. § 519.21(A).

43. The definition of “agriculture” as it pertains to a township’s limited zoning powers includes the following activities that are performed at Chagrin Valley School: farming; ranching; apiculture; horticulture; viticulture; animal husbandry; poultry husbandry; dairy production; the production of field crops, fruits, vegetables, nursery stock, ornamental shrubs,

ornamental trees, flowers, and mushrooms; timber; pasturage; and 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. R.C. § 519.01; Bainbridge Township 1987 Zoning Resolution (“Resolution”) § 105.02 – Definitions, adopted 12/12/2016.

44. The only things within the definition of “agriculture” that Chagrin Valley School does not do are aquaculture and the production of sod and tobacco.

45. The Zoning Certificate that the Bainbridge Township Zoning Inspector has ordered to be revoked was, upon information and belief, for agricultural uses at Chagrin Valley School. Pursuant to R.C. § 519.21(A) & (B), no zoning certificate is required for agricultural buildings or buildings incident to agricultural uses for a 6-acre lot such as that of Chagrin Valley School. Thus, the Township never had the authority to issue the Zoning Certificate that it seeks to now revoke from CVS.

46. Chagrin Valley School’s educational programming is conducted in several buildings on the farm and outside as part of the Ohio General Assembly’s 2016 legislation encouraging farms to engage in “agritourism” without fear of civil liability or zoning interference.

47. “Agritourism” is defined as “an agriculturally related educational, entertainment, historical, cultural, or recreational activity...conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity.” R.C. § 901.80.

48. Townships have no power to prohibit the use of land for agritourism with the exception of the “size of structures used primarily for agritourism, the size of parking areas that

may be required, setback building lines for structures used primarily for agritourism, and egress or ingress where such regulation is necessary to protect public health and safety.” R.C. § 519.21(C)(4).

49. Despite passage of the Agritourism Law and Geauga County’s Model Ordinance including language related to the Agritourism Law, Bainbridge Township’s Zoning Resolution makes no reference to agritourism. *See* Geauga County Model Township Zoning Resolution, Prepared by David C. Dietrich, AICP, Planning Director, in cooperation with: The Geauga County Prosecutor’s Office, James R. Flaiz, Prosecuting Attorney, 2016, *available at* <http://www.prosecutor.co.geauga.oh.us/Portals/10/resources/documents/ModelTwpZoningResolution.pdf>.

50. For the buildings at Chagrin Valley School that are used for agritourism, which is almost all of the structures on the farm, Bainbridge Township does not have the authority to either issue or revoke Zoning Certificates for those buildings or structures. R.C. § 519.21(C)(4). Therefore, the Zoning Inspector’s Revocation Order is null and void and her interpretation of Chagrin Valley School’s duty to apply for a condition use zoning certificate, as stated in the Zoning Inspector’s October 25, 2019, letter is incorrect and illegal.

Chagrin Valley School does not meet the Township’s definition of “school.”

51. While leaving out mandatory language regarding agritourism, the Bainbridge Township Resolution does define both “school” and “private schools.” The Resolution also defines “recreational facilities,” “indoor recreation/fitness” and “outdoor recreation/fitness.”

Notably, both education and recreation are activities on farms are protected by Ohio's Agritourism Law.

52. Bainbridge Township's definition of "school" is "any public school chartered by the Ohio Board of Regents or conforming to minimum standards prescribed by the State Board of Education and any private or parochial school certified by Ohio which offers State approved courses of instruction." Resolution § 105.02. By "private school," Bainbridge Township means "an educational institution which provides fee-based instruction." *Id.*

53. Based on the October 25, 2019, letter from the Bainbridge Zoning Inspector, the revocation of a zoning certificate for a single building on the Kelly's Farm property, the affidavit attested to by Mr. Lovell, the citation issued by Mr. Lovell and the warning issued by Geauga Public Health, local officials have issued those orders relying on their belief that Kelly's Farm constitutes a "private school" under the Bainbridge Township Zoning Resolution.

54. As described in the paragraphs above, Chagrin Valley School does not meet Bainbridge Township's definition of "school" because it is not certified by Ohio and, as a farm-immersion education program, does not seek certification by the State to provide state-approved courses of instruction.

55. The Township's definition of "private school," which appears to be defining the term as it exists within the Resolution's definition of "school," not only requires that the business offer state-approved courses of instruction, but also constitute "an educational institution which provides fee-based instruction." As already stated, Chagrin Valley School does not offer state-approved courses of instruction. In addition, CVS does not provide fee-based instruction as it has no curriculum at all *and* does not constitute an "educational

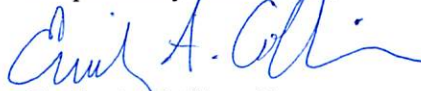
institution.” The Resolution does not define “educational institution,” which presumably refers back to the term “school,” but Chagrin Valley School operates as a farm that regularly engages in agritourism by charging a fee for its educational and recreational activities to participants.

56. Finally, Chagrin Valley School does not constitute a “child day care center” as defined in the Bainbridge Township Zoning Resolution because CVS does not “[administer] to the needs of infants, toddlers, preschool-age children, and school-age children outside of school hours.” R.C. § 5104.01(K); Resolution § 105.01. Ms. Clark has confirmed this status with the Ohio Department of Job and Family Services.

REQUEST FOR RELIEF

57. As Chagrin Valley School’s nonprofit farming operations, including educational, recreational and cultural agritourism, are exempt from Township zoning authority with very limited exceptions, and fall far outside the Township’s definition of “school,” including a “private school,” the Zoning Inspector’s Revocation Order is null and void and her interpretation of Chagrin Valley School’s duty to apply for a condition use zoning certificate, as stated in the Zoning Inspector’s October 25, 2019, letter is incorrect, invalid and illegal.

Respectfully submitted,



Emily A. Collins, Esq.
Ohio Bar No. 93202

Fair Shake Environmental Legal Services
647 E. Market Street
Akron, OH 44304
Email: ecollins@fairshake-els.org

Phone: (234) 571-1971
Counsel for Chagrin Valley School

DATE: November 14, 2019

CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2019, a true and correct copy of the foregoing Notice of Appeal has been served upon the following persons, in the manner indicated:

Michael Lamanna, Chair
Bainbridge Township Board of Zoning Appeals
17826 Chillicothe Road
Chagrin Falls, OH 44023
via hand delivery

Karen Endres
Bainbridge Township Zoning Inspector
17826 Chillicothe Road
Chagrin Falls, OH 44023
via hand delivery

Linda M. Applebaum
Assistant Prosecuting Attorney
Geauga County Prosecutor's Office
231 Main Street, 3rd Floor
Chardon, OH 44024
via electronic mail and U.S. Postal Service mail

William J. Lovell, Fire Safety Inspector
Bainbridge Township Fire Department
17822 Chillicothe Road
Chagrin Falls, OH 44023
via U.S. Postal Service mail

Respectfully submitted,



Emily A. Collins, Esq.
Ohio Bar No. 93202

Fair Shake Environmental Legal Services
647 E. Market Street
Akron, OH 44304
Email: ecollins@fairshake-els.org
Phone: (234) 571-1971

Exhibit A



DATE 01/02/2013	DOCUMENT ID 201236600399	DESCRIPTION DOMESTIC NONPROFIT CORP - ARTICLES (ARN)	FLING 125.00	EXPED .00	PENALTY	CERT .00	COPY .00
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Receipt

This is not a bill. Please do not remit payment.

KELLY A CLARK
295 S FRANKLIN STREET
CHAGRIN FALLS, OH 44022

**STATE OF OHIO
CERTIFICATE**

Ohio Secretary of State, Jon Husted

2161584

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

KELLY'S WORKING WELL FARM

and, that said business records show the filing and recording of:

Document(s):
DOMESTIC NONPROFIT CORP - ARTICLES

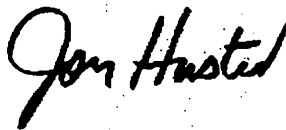
Document No(s):
201236600399



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus,
Ohio this 26th day of December,
A.D. 2012.

Ohio Secretary of State



Form 532B Prescribed by:

JON HUSTED
Ohio Secretary of State

Central Ohio: (614) 466-3910
Toll Free: (877) SOS-FILE (767-3453)
www.OhioSecretaryofState.gov
Busserv@OhioSecretaryofState.gov

Mail this form to one of the following:

Regular Filing (non expedite)
P.O. Box 670
Columbus, OH 43216

Expedite Filing (Two-business day processing
time requires an additional \$100.00).
P.O. Box 1390
Columbus, OH 43216

Initial Articles of Incorporation
(Nonprofit, Domestic Corporation)
Filing Fee: \$125
(114-ARN)

RECEIVED

DEC 26 2012

SECRETARY OF STATE

First: Name of Corporation

Second: Location of Principal office in Ohio

<input type="text" value="Chagrin Falls"/>	<input type="text" value="Ohio"/>
City	State
<input type="text" value="Geauga"/>	
County	

Effective Date (Optional)

mm/dd/yyyy

(The legal existence of the corporation begins upon the filing of the articles or on a later date specified that is not more than ninety days after filing)

Third: Purpose for which corporation is formed

To create a small scale, diversified, educational farm based on permaculture principles that would serve as a model of sustainable, community-based agriculture, while teaching about and providing food and other products to the community.

****Note for Nonprofit Corporations:** The Secretary of State does not grant tax exempt status. Filing with our office is not sufficient to obtain state or federal tax exemptions. Contact the Ohio Department of Taxation and the Internal Revenue Service to ensure that the nonprofit corporation secures the proper state and federal tax exemptions. These agencies may require that a purpose clause be provided.

****Note:** ORC Chapter 1702 allows for additional provisions to be included in the Articles of Incorporation that are filed with this office. If including any of these additional provisions, please do so by including them in an attachment to this form.

ORIGINAL APPOINTMENT OF STATUTORY AGENT

The undersigned, being at least a majority of the incorporators of KELLY'S WORKING WELL FARM hereby appoint the following to be statutory agent upon whom any process, notice or demand required or permitted by statute to be served upon the corporation may be served. The complete address of the agent is

KELLY CLARK
Name

295 SOUTH FRANKLIN ST
Mailing Address

CHAGRIN FALLS Ohio 44022
City State Zip Code

Must be signed by the
Incorporators or a
majority of the
incorporators

[Signature]
Signature

Signature

Signature

ACCEPTANCE OF APPOINTMENT

The Undersigned, KELLY CLARK, named herein as the
Statutory Agent Name

Statutory agent for KELLY'S WORKING WELL FARM
Corporation Name

hereby acknowledges and accepts the appointment of statutory agent for said corporation.

Statutory Agent Signature [Signature]
Individual Agent's Signature / Signature on behalf of Corporate Agent

☐ If the agent is an individual and using a P.O. Box, check this box to confirm the agent is an Ohio resident.

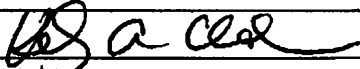
By signing and submitting this form to the Ohio Secretary of State, the undersigned hereby certifies that he or she has the requisite authority to execute this document.

Required

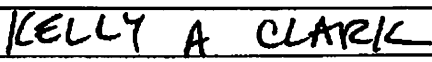
Articles and original appointment of agent must be signed by the incorporator(s).

If the incorporator is an individual, then they must sign in the "signature" box and print his/her name in the "Print Name" box.

If the incorporator is a business entity, not an individual, then please print the entity name in the "signature" box, an authorized representative of the entity must sign in the "By" box and print his/her name and title/authority in the "Print Name" box.


Signature

By


Print Name

Signature

By

Print Name

Signature

By

Print Name

Exhibit B



DATE
08/02/2018

DOCUMENT ID
201821302056

DESCRIPTION
TRADE NAME REGISTRATION (RNO)

FILING
39.00

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0.00

Receipt

This is not a bill. Please do not remit payment.

KELLY'S WORKING WELL FARM
16495 SOUTH FRANKLIN STREET
CHAGRIN FALLS, OH 44023

**STATE OF OHIO
CERTIFICATE**

Ohio Secretary of State, Jon Husted
4215804

It is hereby certified that the Secretary of State of Ohio has custody of the business records for
CHAGRIN VALLEY SCHOOL

and, that said business records show the filing and recording of:

Document(s)

TRADE NAME REGISTRATION

Effective Date: 08/01/2018

Document No(s):

201821302056

Date of First Use: 03/15/2018

Expiration Date: 08/01/2023

KELLY'S WORKING WELL FARM
16519 SOUTH FRANKLIN STREET
CHAGRIN FALLS, OH 44023



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio this
2nd day of August, A.D. 2018.

Ohio Secretary of State

JON HUSTED
Ohio Secretary of State



Toll Free: (877) SOS-FILE (877-767-3453) | Central Ohio: (614) 466-3910
www.OhioSecretaryofState.gov | busserv@OhioSecretaryofState.gov
File online or for more information: www.OHBusinessCentral.com

For screen readers, follow instructions located at this path.

Name Registration

Filing Fee: \$39

Form Must Be Typed

CHECK ONLY ONE (1) Box



Trade Name
(167-RNO)

Date of first use:

3/15/2018

MM/DD/YYYY



Fictitious Name
(169-NFO)

CHAGRIN VALLEY SCHOOL

Name being Registered or Reported

KELLY'S WORKING WELL FARM

Name of the Registrant

Note: If the registrant is a partnership, please provide the name of the partnership. Individual partner names are not permitted but are required on page 2 of the form.

Registrant's Entity Number (if registered with Ohio Secretary of State): 2161584

All registrants must complete the information in this section

The general nature of business conducted by the registrant:

Agriculture and education

Business address:

16519 SOUTH FRANKLIN STREET

Mailing Address

CHAGRIN FALLS

City

OH

State

44023

ZIP Code

Complete the information in this section if registrant is a partnership NOT registered in Ohio pursuant to ORC 1776, if partnership is registered, provide registration number on page one.

Provide the name and address of at least one general partner:

Name

Address

NOTE: Pursuant to OAG 89-081, if a general partner is a foreign corporation/limited liability company, it must be licensed to transact business in Ohio; if a general partner is a foreign corporation/limited liability company licensed in Ohio under an assumed name, please provide the assumed name and the name as registered in its jurisdiction of formation.

By signing and submitting this form to the Ohio Secretary of State, the undersigned hereby certifies that he or she has the requisite authority to execute this document.

Required

Application must be signed by the registrant or an authorized representative.

KELLY CLARK

Signature

If authorized representative is an individual, then they must sign in the "signature" box and print their name in the "Print Name" box.

By (if applicable)

Print Name

If authorized representative is a business entity, not an individual, then please print the business name in the "signature" box, an authorized representative of the business entity must sign in the "By" box and print their name in the "Print Name" box.

Exhibit C

Bainbridge Township
Cauga County
Ohio

JING INSPECTOR

OFFICES
17828 CHILLICOTHE ROAD
BAINBRIDGE TOWNSHIP, OHIO 44023
(440) 543-8871
FAX (440) 543-4854

Kelly Clark
16519 Franklin St.
Chagrin Falls, OH 44023

Delivered personally

RE: Chagrin Valley School/Day-Care

October 25, 2019

Dear Ms. Clark,

It has come to my attention that a school and day-care are being run from your property at 16519 Franklin Street in in the R3A:Rural Residential zoning district of Bainbridge Township.

Please be advised that a conditional use zoning certificate is required for a private school in the R3A zoning district. Conditional use zoning certificates are approved through the Bainbridge Township Board of Zoning Appeals per section 135.02(b) of the Bainbridge Township Zoning Resolution (BTZR). Conditions for permitting a private or parochial schools are referenced in section 117.13(e) of the BTZR. Section 135.02(a) of the BTZR requires a zoning certificate for Type B family day-care homes as defined by Ohio R.C. 5104.054. Type A day-care centers are not permitted in the residential zoning districts.

I have been advised of safety concerns for the children enrolled in Chagrin Valley School and the day-care. Please cease operation of the school and day-care until such a time that all the appropriate permitting and licensing have been obtained.

Buildings on the property were allowed as agricultural buildings. If the primary use of those buildings has changed from agricultural to a school, day-care or something besides agricultural then zoning certificates need to be obtained for those buildings and structures.

CC: FF# 4756
Bainbridge Fire Department
Linda Applebaum - GCPO

Respectfully,



Karen Endres
Bainbridge Township
Zoning Inspector

117.13(e) The following specific criteria and requirements for schools, both public and private, when allowed in the zoning district as a conditional use are mandatory, in addition to the general criteria and specific criteria set forth in Section 117.13(a) and (b): [Adopted 10/9/2006 - Z-2006-6]

- 1. In the event outdoor activities, on site, will be part of a school operation, such activities shall take place in one or more completely and securely fenced play lots which shall be no closer than one hundred (100) feet to any residentially zoned lot line, shall be screened by a masonry wall, fence, or compact evergreen hedge no less than five (5) feet in height, and maintained in good condition.**
- 2. Any outdoor activity conducted in conjunction with the school shall not occur after 6:00 P.M. and before 7:30 A.M.**
- 3. The applicant shall provide auditory and visual screening and buffering for any outdoor activities engaged in by the students in conjunction with the school for any portion of the lot that is adjacent to a Residential District which shall include ten foot (10') high landscaped earthen mound, fencing or walls as determined by the Board of Zoning Appeals. A twenty (20) year growth landscaping plan shall be prepared by a registered landscape architect and submitted to the Board of Zoning Appeals for the required landscaping for any school proposal.**
- 4. The applicant of the school shall provide for drop off and pick up of students in an area where it will not impede traffic on or off the site and where the least amount of unrelated traffic circulation is probable in light of the type of uses on the site and locations of buildings on the site are contained and where safest for students to leave and re-enter such motor vehicles. When the Board of Zoning Appeals deems it appropriate, the applicant shall submit a traffic impact analysis of the proposed addition of the school on the lot, and the Board of Zoning Appeals, when it deems appropriate, may have an independent evaluation of such traffic impact analysis prepared for the Board of Zoning Appeals, at the expense of the applicant.**
- 5. The applicant shall provide for additional screening for auditory purposes when the Board of Zoning Appeals determines that it is required to reduce the impact on tenants of buildings located on the same lot being utilized for convenience business, service or office uses.**
- 6. The applicant shall provide signage, based upon the size, number and location determined necessary for the lot by the Board of Zoning Appeals, noting pick up and drop off points for students to adequately warn occupants and users of the lot of the existence of the school and shall impose rules for the users of the school to follow for pick up and drop off of students at clearly marked points to promote the safety and security of the attendees utilizing the school.**
- 7. Each school shall provide a location, as determined by the Board of Zoning Appeals, for school bus drop off and shall provide for the ability of the school bus to either turn around within the drop off area or alternatively provide a circular drive back to the road upon which such lot is located.**
- 8. The applicant shall provide written certification from the applicable governmental agency having jurisdiction thereof that (i) adequate sanitary sewage disposal has been provided for by a public sanitary sewer system, or (ii) the proposed on site sewer system will be in compliance with the statutes, rules and regulations of the State of Ohio and the Ohio Department of Health. Each school center shall comply with all applicable federal, state, county and township regulations.**
- 9. The applicant shall provide written certification from the applicable governmental agency that a public water supply is available to the day-care center or, in the event no such public water supply is available, provide a report of a hydrogeologist or hydrologist that there is adequate ground water in the aquifer serving the school to supply the employees and students at the school without unreasonably affecting the aquifer serving other portions of the same lot and surrounding property served by the same aquifer. The Board of Zoning Appeals may, when it deems appropriate, obtain an independent evaluation of such report prepared for the Board of Zoning Appeals, at the expense of the applicant.**
- 10. Minimum Lot Width. A lot shall have a minimum width of two hundred fifty feet (250').**
- 11. Each school shall have at least one building entrance dedicated solely for its use.**

Exhibit D



November 1, 2019

Delivered via hand delivery and electronic mail

Linda Applebaum, Esq.
Geauga County Prosecutor's Office
Civil Division
231 Main Street, 3rd Floor
Chardon, Ohio 44024
Linda.applebaum@gcpao.com

**Re: Bainbridge Township Cessation of Operations Request of Kelly's Working Well Farm
d/b/a Chagrin Valley School**

Dear Attorney Applebaum,

I represent Kelly's Working Well Farm d/b/a Chagrin Valley School with respect to Inspector Karen Endres' hand-delivered request to my client that the farm "[p]lease cease operation...until such a time that all the appropriate permitting and licensing have been obtained." As Chagrin Valley School constitutes a represented person, please advise all appropriate officials and staff of Bainbridge Township to cease all direct communication with my client. Please direct any future correspondence from Bainbridge Township with respect to this matter to my attention.

I have attached the letter in response to Inspector Endres' request to my client to this letter. Our response was hand delivered to the Bainbridge Township office this morning.

I am available via email at ecollins@fairshake-els.org and by mail at 647 E. Market Street, Akron, Ohio 44304. My office phone number is: (234) 571-1971. If you are unable to reach me via phone, please reach out via email.

Sincerely,

Emily A. Collins, Esq.
Ohio Bar ID No. 93202
Managing Attorney
Fair Shake Environmental Legal Services
647 E. Market Street
Akron, Ohio 44304
Counsel for Kelly's Working Well Farm



November 1, 2019

Delivered via hand delivery

Karen Endres, Zoning Inspector
Bainbridge Township
17826 Chillicothe Road
Bainbridge Township, OH 44023

Re: Cessation of Operations Request of Kelly's Working Well Farm d/b/a Chagrin Valley School

Dear Inspector Endres,

I represent Kelly's Working Well Farm d/b/a Chagrin Valley School with respect to your hand-delivered request that the farm "[p]lease cease operation...until such a time that all the appropriate permitting and licensing have been obtained."¹ This letter is in response to that request. Please direct any future correspondence from yourself or your legal counsel to my attention.

Your request exceeds the limited authority granted to Townships and Counties by the State of Ohio. Therefore, Kelly's Working Well Farm is resuming its normal agricultural and educational agritourism operations upon delivery of this letter to your office.

Kelly's Working Well Farm was incorporated as an Ohio nonprofit corporation on December 26, 2012, with the following purpose in its Articles of Incorporation: "to create a small scale, diversified educational farm based on permaculture principles that would serve as a model of sustainable, community-based agriculture, while teaching about and providing food and other products to the community."² It has operated according to that purpose since 2012 and continues to do so. In 2018, Kelly's Working Well Farm registered a trade name of Chagrin

¹ The October 25, 2019 letter to my client requests cessation of operations, but it does not appear to rise to the level of a "decision" within the meaning of the Board of Zoning Appeals appellate procedures in section 117.09 of the Township's Zoning Resolution. Given the ambiguous nature of your letter to my client and the failure of the Township to apply (or even acknowledge in its own Zoning Resolution) state law revoking Ohio township zoning authority over agricultural and agritourism operations, I expect that Bainbridge Township will need to issue a clear "decision" to trigger applicability of the procedures in section 117.09 of the Bainbridge Township's Zoning Resolution.

² The Initial Articles of Incorporation are attached to this letter as Attachment A.

Valley School.³ The nature of the business, remaining unchanged for its trade name registration from the Initial Articles of Incorporation, are stated as “agriculture and education.”

The Ohio General Assembly explicitly withheld power from township zoning commissions, boards of township trustees and boards of zoning appeals “to prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located...and no zoning certificate shall be required for any such building or structure.” R.C. 519.21(A). Chagrin Valley School performs the following activities included in the Ohio Revised Code’s definition of “agriculture” as it pertains to a township’s limited zoning powers: farming; ranching; apiculture; horticulture; viticulture; animal husbandry; poultry husbandry; dairy production; the production of field crops, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, and mushrooms; timber; pasturage; and 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. *See* R.C. 519.01. The only things within the definition of “agriculture” that Chagrin Valley School does not do are aquaculture and the production of sod and tobacco.

Chagrin Valley School’s educational programming is conducted as part of the Ohio General Assembly’s 2016 legislation encouraging farms to engage in “agritourism” without fear of civil liability or zoning interference. “Agritourism” is defined in Ohio law as “an agriculturally related educational, entertainment, historical, cultural, or recreational activity...conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity.”⁴ The Township has no power to prohibit in a district zoned for agricultural uses, the use of land for agritourism with the exception of the “size of structures used primarily for agritourism, the size of parking areas that may be required, setback building lines for structures used primarily for agritourism, and egress or ingress where such regulation is necessary to protect public health and safety.”⁵

The Chagrin Valley School operates as a farm that regularly engages in agritourism by charging a fee for its educational activities to participants. The Chagrin Valley School’s agritourism educational activities are largely governed by the principles of permaculture farming and democratic decisionmaking. Bainbridge Township has no authority to assert zoning power over its operations except as provided in R.C. 519.21(C)(4).

Your letter vaguely refers to “safety concerns” at the Farm. We look forward to your feedback on any safety concerns and welcome your presence at the Farm during our open hours to learn

³ The Trade Name Registration is attached to this letter as Attachment B.

⁴ *See* Senate Bill Number 75 of the 131st General Assembly, attached to this letter as Attachment C; *see also* R.C. 901.80.

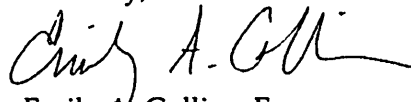
⁵ R.C. 519.21(C)(4).

about any and all aspects of our agritourism operation and Farm functions, including our heating, cooking, and electrical systems.

Finally, while my client welcomes your interest and your feedback, I fully expect that any extreme requests such as cessation of operations should be tempered by discussions between respective counsel in the face of such limited authority provided to you by the State of Ohio. As a courtesy, please note that Geauga County has drafted a Model Township Zoning Resolution in 2016 that includes the agritourism law protections mandated by the Ohio General Assembly.⁶ It appears from your zoning resolution language available through your website that the agritourism law has not yet been considered by Bainbridge Township, which may be the source of your confusion.

I am available via email at ecollins@fairshake-els.org and by mail at 647 E. Market Street, Akron, Ohio 44304. My office phone number is: (234) 571-1971. If you are unable to reach me via phone, please reach out via email.

Sincerely,



Emily A. Collins, Esq.

Ohio Bar ID No. 93202

Managing Attorney

Fair Shake Environmental Legal Services

647 E. Market Street

Akron, Ohio 44304

Counsel for Kelly's Working Well Farm

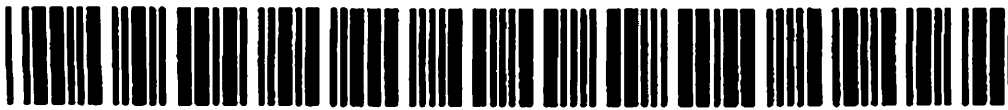
Cc: Linda Applebaum, Esq. *via email and in-person (with request that she instruct her client that the client may only contact my client through respective counsel)*

linda.applebaum@gcpao.com

⁶ Geauga County Model Township Zoning Resolution, Prepared by David C. Dietrich, AICP, Planning Director, in cooperation with: The Geauga County Prosecutor's Office, James R. Flaiz, Prosecuting Attorney, 2016, available at

<http://www.prosecutor.co.geauga.oh.us/Portals/10/resources/documents/ModelTwpZoningResolution.pdf>.

Attachment A



DATE 01/02/2013	DOCUMENT ID 201236600399	DESCRIPTION DOMESTIC NONPROFIT CORP - ARTICLES (ARN)	FILING 125.00	EXPED .00	PENALTY	CERT .00	COPY .00
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Receipt

This is not a bill. Please do not remit payment.

KELLY A CLARK
295 S FRANKLIN STREET
CHAGRIN FALLS, OH 44022

**STATE OF OHIO
CERTIFICATE**

Ohio Secretary of State, Jon Husted

2161584

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

KELLY'S WORKING WELL FARM

and, that said business records show the filing and recording of:

Document(s):

DOMESTIC NONPROFIT CORP - ARTICLES

Document No(s):

201236600399



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus,
Ohio this 26th day of December,
A.D. 2012.

Jon Husted

Ohio Secretary of State



Form 532B Prescribed by:

JON HUSTED
Ohio Secretary of State

Central Ohio: (614) 466-3910
Toll Free: (877) SOS-FILE (767-3453)
www.OhioSecretaryofState.gov
Busserv@OhioSecretaryofState.gov

Mail this form to one of the following:

Regular Filing (non expedite)
P.O. Box 670
Columbus, OH 43216

Expedite Filing (Two-business day processing
time requires an additional \$100.00).
P.O. Box 1390
Columbus, OH 43216

Initial Articles of Incorporation
(Nonprofit, Domestic Corporation)
Filing Fee: \$125
(114-ARN)

RECEIVED

DEC 26 2012

SECRETARY OF STATE

First: Name of Corporation

Second: Location of Principal office
in Ohio

City

State

County

Effective Date
(Optional)

mm/dd/yyyy

(The legal existence of the corporation begins upon
the filing of the articles or on a later date specified
that is not more than ninety days after filing)

Third: Purpose for which corporation is formed

To create a small scale, diversified, educational farm based on permaculture principles that would serve as a model of sustainable, community-based agriculture, while teaching about and providing food and other products to the community.

****Note for Nonprofit Corporations:** The Secretary of State does not grant tax exempt status. Filing with our office is not sufficient to obtain state or federal tax exemptions. Contact the Ohio Department of Taxation and the Internal Revenue Service to ensure that the nonprofit corporation secures the proper state and federal tax exemptions. These agencies may require that a purpose clause be provided.

****Note:** ORC Chapter 1702 allows for additional provisions to be included in the Articles of Incorporation that are filed with this office. If including any of these additional provisions, please do so by including them in an attachment to this form.

ORIGINAL APPOINTMENT OF STATUTORY AGENT

The undersigned, being at least a majority of the incorporators of KELLY'S WORKING WELL FARM hereby appoint the following to be statutory agent upon whom any process, notice or demand required or permitted by statute to be served upon the corporation may be served. The complete address of the agent is

KELLY CLARK

Name

295 SOUTH FRANKLIN ST

Mailing Address

CHAGRIN FALLS

City

Ohio

State

44022

Zip Code

Must be signed by the
incorporators or a
majority of the
incorporators

[Signature]

Signature

Signature

Signature

ACCEPTANCE OF APPOINTMENT

The Undersigned,

KELLY CLARK

Statutory Agent Name

, named herein as the

Statutory agent for

KELLY'S WORKING WELL FARM

Corporation Name

hereby acknowledges and accepts the appointment of statutory agent for said corporation.

Statutory Agent Signature

[Signature]

Individual Agent's Signature / Signature on behalf of Corporate Agent

☐ If the agent is an individual and using a P.O. Box, check this box to confirm the agent is an Ohio resident.

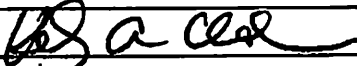
By signing and submitting this form to the Ohio Secretary of State, the undersigned hereby certifies that he or she has the requisite authority to execute this document.

Required

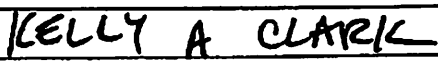
Articles and original appointment of agent must be signed by the incorporator(s).

If the incorporator is an individual, then they must sign in the "signature" box and print his/her name in the "Print Name" box.

If the incorporator is a business entity, not an individual, then please print the entity name in the "signature" box, an authorized representative of the entity must sign in the "By" box and print his/her name and title/authority in the "Print Name" box.


Signature

By


Print Name

Signature

By

Print Name

Signature

By

Print Name

Attachment B



DATE	DOCUMENT ID	DESCRIPTION	FILING	EXPED	CERT	COPY
08/02/2018	201821302056	TRADE NAME REGISTRATION (RNO)	39.00	0.00	0.00	0.00

Receipt

This is not a bill. Please do not remit payment.

KELLY'S WORKING WELL FARM
16495 SOUTH FRANKLIN STREET
CHAGRIN FALLS, OH 44023

**STATE OF OHIO
CERTIFICATE**

Ohio Secretary of State, Jon Husted
4215804

It is hereby certified that the Secretary of State of Ohio has custody of the business records for
CHAGRIN VALLEY SCHOOL

and, that said business records show the filing and recording of:

Document(s)

TRADE NAME REGISTRATION

Effective Date: 08/01/2018

Document No(s):

201821302056

Date of First Use: 03/15/2018

Expiration Date: 08/01/2023

KELLY'S WORKING WELL FARM
16519 SOUTH FRANKLIN STREET
CHAGRIN FALLS, OH 44023



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio this
2nd day of August, A.D. 2018.

Jon Husted

Ohio Secretary of State

JON HUSTED
Ohio Secretary of State



Toll Free: (877) SOS-FILE (877-767-3453) | Central Ohio: (614) 466-3910
www.OhioSecretaryofState.gov | busserv@OhioSecretaryofState.gov
File online or for more information: www.OHBusinessCentral.com

For screen readers, follow instructions located at this path.

Name Registration

Filing Fee: \$39

Form Must Be Typed

CHECK ONLY ONE (1) Box



Trade Name
(167-RNO)

Date of first use:

3/15/2018

MM/DD/YYYY



Fictitious Name
(169-NFO)

CHAGRIN VALLEY SCHOOL

Name being Registered or Reported

KELLY'S WORKING WELL FARM

Name of the Registrant

Note: If the registrant is a partnership, please provide the name of the partnership. Individual partner names are not permitted but are required on page 2 of the form.

Registrant's Entity Number (if registered with Ohio Secretary of State): 2161584

All registrants must complete the information in this section

The general nature of business conducted by the registrant:

Agriculture and education

Business address:

16519 SOUTH FRANKLIN STREET

Mailing Address

CHAGRIN FALLS

City

OH

State

44023

ZIP Code

Complete the information in this section if registrant is a partnership NOT registered in Ohio pursuant to ORC 1776, if partnership is registered, provide registration number on page one.

Provide the name and address of at least one general partner:

Name

Address

NOTE: Pursuant to OAG 89-081, if a general partner is a foreign corporation/limited liability company, it must be licensed to transact business in Ohio; if a general partner is a foreign corporation/limited liability company licensed in Ohio under an assumed name, please provide the assumed name and the name as registered in its jurisdiction of formation.

By signing and submitting this form to the Ohio Secretary of State, the undersigned hereby certifies that he or she has the requisite authority to execute this document.

Required

Application must be signed by the registrant or an authorized representative.

KELLY CLARK

Signature

If authorized representative is an individual, then they must sign in the "signature" box and print their name in the "Print Name" box.

By (if applicable)

Print Name

If authorized representative is a business entity, not an individual, then please print the business name in the "signature" box, an authorized representative of the business entity must sign in the "By" box and print their name in the "Print Name" box.

Attachment C

AN ACT

To amend sections 303.21, 519.21, and 5713.30 and to enact section 901.80 of the Revised Code to limit the authority of a board of county commissioners or board of township trustees to prohibit agritourism through zoning, to apply current agricultural use valuation to land used for agritourism for property tax purposes, and to establish immunity in a civil action for agritourism providers.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 303.21, 519.21, and 5713.30 be amended and section 901.80 of the Revised Code be enacted to read as follows:

Sec. 303.21. (A) Except as otherwise provided in division (B) of this section, sections 303.01 to 303.25 of the Revised Code do not confer any power on any county rural zoning commission, board of county commissioners, or board of zoning appeals to prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, including buildings or structures that are used primarily for vinting and selling wine and that are located on land any part of which is used for viticulture, and no zoning certificate shall be required for any such building or structure.

(B) A county zoning resolution, or an amendment to such resolution, may in any platted subdivision approved under section 711.05, 711.09, or 711.10 of the Revised Code, or in any area consisting of fifteen or more lots approved under section 711.131 of the Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road regulate:

(1) Agriculture on lots of one acre or less;

(2) Buildings 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;

(3) Dairying and animal and poultry husbandry on lots greater than one acre but not greater than five acres when at least thirty-five per cent of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured and mobile homes under section 4503.06 of the Revised Code. After thirty-five per cent of the lots are so developed, dairying and animal and poultry husbandry shall be considered nonconforming use of land and buildings or structures pursuant to section 303.19 of the Revised Code.

Division (B) of this section confers no power on any county rural zoning commission, board of county commissioners, or board of zoning appeals to regulate agriculture, buildings or structures,

and dairying and animal and poultry husbandry on lots greater than five acres.

(C) Such sections confer no power on any board of county commissioners, county rural zoning commission, or board of zoning appeals to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for:

(1) A farm market where fifty per cent 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. However, a board of county commissioners, as provided in section 303.02 of the Revised Code, 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.

(2) Biodiesel production, biomass energy production, or electric or heat energy production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37 of the Revised Code for real property tax purposes. As used in division (C)(2) of this section, "biodiesel," "biomass energy," and "electric or heat energy" have the same meanings as in section 5713.30 of the Revised Code.

(3) Biologically derived methane gas production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37 of the Revised Code for real property tax purposes and if the facility that produces the biologically derived methane gas does not produce more than seventeen million sixty thousand seven hundred ten British thermal units, five megawatts, or both.

(4) Agritourism. However, a board of county commissioners, as provided in section 303.02 of the Revised Code, may regulate such factors pertaining to agritourism, except farm markets as described in division (C)(1) of this section, as size of a structure used primarily for agritourism, size of parking areas that may be required, setback building lines for structures used primarily for agritourism, and egress or ingress where such regulation is necessary to protect public health and safety.

Nothing in division (C)(4) of this section confers power on a county zoning commission, board of county commissioners, or board of zoning appeals to require any parking area to be improved in any manner, including requirements governing drainage, parking area base, parking area paving, or any other improvement.

Nothing in division (C)(4) of this section confers power on a county zoning commission, board of county commissioners, or board of zoning appeals to prohibit the use of any land or the construction or use of buildings or structures that are used primarily for vinting and selling wine that are located on land any part of which is used for viticulture as provided in division (A) of this section.

(D)(1) As used in division (C)(3) of this section, "biologically derived methane gas" has the same meaning as in section 5713.30 of the Revised Code.

(2) As used in division (C)(4) of this section, "agritourism" has the same meaning as in section 901.80 of the Revised Code.

Sec. 519.21. (A) Except as otherwise provided in division (B) of this section, sections 519.02 to 519.25 of the Revised Code confer 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

or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, including buildings or structures that are used primarily for vinting and selling wine and that are located on land any part of which is used for viticulture, and no zoning certificate shall be required for any such building or structure.

(B) A township zoning resolution, or an amendment to such resolution, may in any platted subdivision approved under section 711.05, 711.09, or 711.10 of the Revised Code, or in any area consisting of fifteen or more lots approved under section 711.131 of the Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road regulate:

(1) Agriculture on lots of one acre or less;

(2) Buildings 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;

(3) Dairying and animal and poultry husbandry on lots greater than one acre but not greater than five acres when at least thirty-five per cent of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured and mobile homes under section 4503.06 of the Revised Code. After thirty-five per cent of the lots are so developed, dairying and animal and poultry husbandry shall be considered nonconforming use of land and buildings or structures pursuant to section 519.19 of the Revised Code.

Division (B) of this section confers no power on any township zoning commission, board of township trustees, or board of zoning appeals to regulate agriculture, buildings or structures, and dairying and animal and poultry husbandry on lots greater than five acres.

(C) Such sections confer no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for:

(1) A farm market where fifty per cent 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. However, a board of township trustees, as provided in section 519.02 of the Revised Code, 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.

(2) Biodiesel production, biomass energy production, or electric or heat energy production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37 of the Revised Code for real property tax purposes. As used in division (C)(2) of this section, "biodiesel," "biomass energy," and "electric or heat energy" have the same meanings as in section 5713.30 of the Revised Code.

(3) Biologically derived methane gas production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37 of the Revised Code for real property tax purposes and if the facility that produces the biologically derived methane gas does not produce more than seventeen million sixty thousand seven hundred ten British thermal units, five megawatts, or both.

(4) Agritourism. However, a board of township trustees, as provided in section 519.02 of the Revised Code, may regulate such factors pertaining to agritourism, except farm markets as described in division (C)(1) of this section, as size of a structure used primarily for agritourism, size of parking areas that may be required, setback building lines for structures used primarily for agritourism, and egress or ingress where such regulation is necessary to protect public health and safety.

Nothing in division (C)(4) of this section confers power on a township zoning commission, board of township trustees, or board of zoning appeals to require any parking area to be improved in any manner, including requirements governing drainage, parking area base, parking area paving, or any other improvement.

Nothing in division (C)(4) of this section confers power on a township zoning commission, board of township trustees, or board of zoning appeals to prohibit the use of any land or the construction or use of buildings or structures that are used primarily for vinting and selling wine that are located on land any part of which is used for viticulture as provided in division (A) of this section.

(D)(1) As used in division (C)(3) of this section, "biologically derived methane gas" has the same meaning as in section 5713.30 of the Revised Code.

(2) As used in division (C)(4) of this section, "agritourism" has the same meaning as in section 901.80 of the Revised Code.

Sec. 901.80. (A) As used in this section:

(1) "Agricultural production" has the same meaning as in section 929.01 of the Revised Code.

(2) "Agritourism" means an agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity.

(3) "Agritourism provider" means a person who owns, operates, provides, or sponsors an agritourism activity or an employee of such a person who engages in or provides agritourism activities whether or not for a fee.

(4) "Farm" means land that is composed of tracts, lots, or parcels totaling not less than ten acres devoted to agricultural production or totaling less than ten acres devoted to agricultural production if the land produces an average yearly gross income of at least twenty-five hundred dollars from agricultural production.

(5) "Participant" means an individual, other than an agritourism provider, who observes or participates in an agritourism activity.

(6) "Risk inherent in an agritourism activity" means a danger or condition that is an integral part of an agritourism activity, including all of the following:

(a) The surface and subsurface conditions of land;

(b) The behavior or actions of wild animals not kept by or under the control of an agritourism provider;

(c) The behavior or actions of domestic animals other than vicious or dangerous dogs as defined in section 955.11 of the Revised Code;

(d) The ordinary dangers associated with structures or equipment ordinarily used in farming or ranching operations;

(e) The possibility of contracting illness resulting from physical contact with animals, animal feed, animal waste, or surfaces contaminated by animal waste;

(f) The possibility that a participant may act in a negligent manner, including by failing to follow instructions given by the agritourism provider or by failing to exercise reasonable caution while engaging in the agritourism activity that may contribute to injury to that participant or another participant.

(B) In a civil action, an agritourism provider is immune from liability for any harm a participant sustains during an agritourism activity if the participant is harmed as a result of a risk inherent in an agritourism activity. Nothing in this section requires an agritourism provider to eliminate risks inherent in agritourism activities.

(C) An agritourism provider is not immune from civil liability for harm sustained by a participant if any of the following applies:

(1) The agritourism provider acts with a willful or wanton disregard for the safety of the participant and proximately causes harm to the participant.

(2) The agritourism provider purposefully causes harm to the participant.

(3) The agritourism provider's actions or inactions constitute criminal conduct and cause harm to the participant.

(4) The agritourism provider fails to post and maintain signs as required by division (D) of this section.

(5) The agritourism provider has actual knowledge or should have actual knowledge of an existing dangerous condition on the land or regarding facilities or equipment on the land that is not an inherent risk and does not make the dangerous condition known to the participant, and the dangerous condition proximately causes injury or damage to or the death of the participant.

(D) An agritourism provider shall post and maintain signs that contain the warning notice specified in this division. The provider shall place a sign in a clearly visible location at or near each entrance to the agritourism location or at the site of each agritourism activity. The warning notice shall consist of a sign in black letters with each letter to be a minimum of one inch in height. The signs shall contain the following notice of warning: "WARNING: Under Ohio law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if that injury or death results from the inherent risks of that agritourism activity. Inherent risks of agritourism activities include, but are not limited to, the risk of injury inherent to land, equipment, and animals as well as the potential for you as a participant to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity."

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 5715.01 of the Revised Code:

(A) "Land devoted exclusively to agricultural use" means:

(1) Tracts, lots, or parcels of land totaling not less than ten acres to which, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code, and through the last day of May of such year, one or more of the following apply:

(a) The tracts, lots, or parcels of land were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental

trees, sod, or flowers, or the growth of timber for a noncommercial purpose, if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use.

(b) The tracts, lots, or parcels of land were devoted exclusively to biodiesel production, biomass energy production, electric or heat energy production, or biologically derived methane gas production if the land on which the production facility is located is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use, provided that at least fifty per cent of the feedstock used in the production was derived from parcels of land under common ownership or leasehold.

(c) The tracts, lots, or parcels of land were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government.

(2) Tracts, lots, or parcels of land totaling less than ten acres that, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code and through the last day of May of such year, were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental trees, sod, or flowers where such activities produced an average yearly gross income of at least twenty-five hundred dollars during such three-year period or where there is evidence of an anticipated gross income of such amount from such activities during the tax year in which application is made, or were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government;

(3) A tract, lot, or parcel of land taxed under sections 5713.22 to 5713.26 of the Revised Code is not land devoted exclusively to agricultural use;

(4) Tracts, lots, or parcels of land, or portions thereof that, during the previous three consecutive calendar years have been designated as land devoted exclusively to agricultural use, but such land has been lying idle or fallow for up to one year and no action has occurred to such land that is either inconsistent with the return of it to agricultural production or converts the land devoted exclusively to agricultural use as defined in this section. Such land shall remain designated as land devoted exclusively to agricultural use provided that beyond one year, but less than three years, the landowner proves good cause as determined by the board of revision.

"Land devoted exclusively to agricultural use" includes tracts, lots, or parcels of land or portions thereof that are used for conservation practices, provided that the tracts, lots, or parcels of land or portions thereof comprise twenty-five per cent or less of the total of the tracts, lots, or parcels of land that satisfy the criteria established in division (A)(1), (2), or (4) of this section together with the tracts, lots, or parcels of land or portions thereof that are used for conservation practices.

Notwithstanding any other provision of law to the contrary, the existence of agritourism on a tract, lot, or parcel of land that otherwise meets the definition of "land devoted exclusively to agricultural use" as defined in this division does not disqualify that tract, lot, or parcel from valuation under sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

(B) "Conversion of land devoted exclusively to agricultural use" means any of the following:

(1) The failure of the owner of land devoted exclusively to agricultural use during the next

preceding calendar year to file a renewal application under section 5713.31 of the Revised Code without good cause as determined by the board of revision;

(2) The failure of the new owner of such land to file an initial application under that section without good cause as determined by the board of revision;

(3) The failure of such land or portion thereof to qualify as land devoted exclusively to agricultural use for the current calendar year as requested by an application filed under such section;

(4) The failure of the owner of the land described in division (A)(4) of this section to act on such land in a manner that is consistent with the return of the land to agricultural production after three years.

The construction or installation of an energy facility, as defined in section 5727.01 of the Revised Code, on a portion of a tract, lot, or parcel of land devoted exclusively to agricultural use shall not cause the remaining portion of the tract, lot, or parcel to be regarded as a conversion of land devoted exclusively to agricultural use if the remaining portion of the tract, lot, or parcel continues to be devoted exclusively to agricultural use.

(C) "Tax savings" means the difference between the dollar amount of real property taxes levied in any year on land valued and assessed in accordance with its current agricultural use value and the dollar amount of real property taxes that would have been levied upon such land if it had been valued and assessed for such year in accordance with Section 2 of Article XII, Ohio Constitution.

(D) "Owner" includes, but is not limited to, any person owning a fee simple, fee tail, or life estate or a buyer on a land installment contract.

(E) "Conservation practices" are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

(F) "Wetlands" has the same meaning as in section 6111.02 of the Revised Code.

(G) "Biodiesel" means a mono-alkyl ester combustible liquid fuel that is derived from vegetable oils or animal fats or any combination of those reagents and that meets the American society for testing and materials specification D6751-03a for biodiesel fuel (B100) blend stock distillate fuels.

(H) "Biologically derived methane gas" means gas from the anaerobic digestion of organic materials, including animal waste and agricultural crops and residues.

(I) "Biomass energy" means energy that is produced from organic material derived from plants or animals and available on a renewable basis, including, but not limited to, agricultural crops, tree crops, crop by-products, and residues.

(J) "Electric or heat energy" means electric or heat energy generated from manure, cornstalks, soybean waste, or other agricultural feedstocks.

(K) "Agritourism" has the same meaning as in section 901.80 of the Revised Code.

SECTION 2. That existing sections 303.21, 519.21, and 5713.30 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____

Exhibit E

**IN THE CHARDON MUNICIPAL COURT
GEAUGA COUNTY, OHIO**

WARRANT TO CONDUCT ADMINISTRATIVE SEARCH

STATE OF OHIO	:			
	:	SS	CASE NO.	
GEAUGA COUNTY	:			

TO: Assistant State Fire Marshals of the Ohio Department of Commerce, Division of State Fire Marshal's Office; Bainbridge Township Fire, Police, and Zoning Departments; Geauga County District Board of Health; Geauga County Building Department; Geauga County Sheriff and any other officials deemed necessary.

WHEREAS, there has been filed with me an Administrative Search Warrant and one affidavit requesting a Warrant, a copy of which is attached and incorporated with this Warrant; and

WHEREAS, I am satisfied that there is sufficient administrative necessity and reasonable belief and/or probable cause of substantial threat to public health or safety for the issuance of a warrant for the premises known as Kelly's Working Well Farm, d/b/a Chagrin Valley Schools ("premises"), located at **16519 Franklin St.**, Chagrin Falls, Ohio, and otherwise identified at parcel no. 02-193100, recorded at volume 1927, page 2587 with the Geauga County Recorder's Office.

THEREFORE, you are hereby authorized to serve this warrant, within three (3) working days, in the name of the State of Ohio, with the necessary and proper assistance, including officials from the State Fire Marshal's Office, Bainbridge Township Fire Department, Geauga County District Board of Health, Bainbridge Township Zoning Department, Geauga County Department of Building and Housing, Geauga Sheriff's Office; Bainbridge Police Department, and any other agency of the Bainbridge Fire Department deemed necessary to enter in the

daytime into the premises at **16519 Franklin St.**, Chagrin Falls, Ohio, and then diligently inspect and investigate the premises, including the grounds, and exterior and interior parts of all structures on the premises.

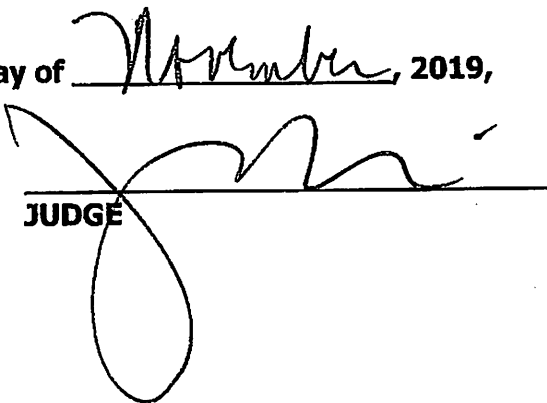
This Administrative Search Warrant includes the authority to enter and reenter as needed during daylight hours, upon the premises described above to conduct an administrative investigation/inspection on the premises to ascertain the presence of basic safety elements and fire, building and health code violations, including but not limited to, accessing the integrity of structures, the installation of fire protection, electrical, heating, and other building systems, egress provisions, the usage and occupancy of the structure and grounds, the storage of materials at the site and/or discovery of any other potential fire and health hazards at the site, and to perform such other acts as are necessary including, but not limited to, the following:

1. Visually inspect, sample, observe, videotape, measure, monitor, photograph, and record in a reasonable manner all structures and/or portions of structures located on the premises, including inside and about the walls, hallways, rooms, storage areas, pipes, electrical receptacles, electrical, plumbing and mechanical systems and equipment, behind, below and above fixtures, above any ceilings, on the roof, behind, below or above furniture, boxes, and other such obstacles, inside cabinets, on shelves and other such storage devices, inside and outside the building and about the property
2. Utilize and install such equipment and/or tools necessary to conduct such inspections, samplings observations, videotaping, measuring, monitoring, photographing, and recording to determine compliance or achieve the purposes of Chapter 3737 and 3781 of the Revised Code and the Ohio Fire Code (OAC 1301:7-

7), and as incorporated by reference and/or referenced in R.C. 3781.03 (OAC 4101:., the Ohio Building Code; and any other Health and Safety Regulations, and

3. Perform such further acts that are reasonably related to determine compliance with or achieve the purposes of Chapter 3737 and 3781 of the Revised Code, the Ohio Fire Code, and any other Health, Safety, and Building Regulations.

YOU ARE COMMANDED to conduct an administrative inspection/investigation of the premises and its vicinity in the manner described above, serving this warrant, leaving a copy of this warrant and a receipt for any samples taken. Within ten (10) days you shall prepare a written inventory of any samples taken and a written report of your inspection which shall be returned with this warrant to this Court following the execution. Photographic evidence collected during the course of this search may be retained by parties obtaining such evidence.

Given under my hand this 6th day of November, 2019,
at 12:02 o'clock P.M.

JUDGE

**IN THE CHARDON MUNICIPAL COURT
GEAUGA COUNTY, OHIO**

STATE OF OHIO :
 : **SS**
GEAUGA COUNTY :

RETURN OF ADMINISTRATIVE SEARCH WARRANT

I received the attached Search Warrant on _____ and have
executed it as follows:

On _____, at _____ o'clock a.m./p.m., I
searched the premises described in the warrant as 16519 Franklin St., Chagrin Falls, Ohio,
and I left a copy of the warrant with:

(Owner or Person in Control)

Affiant

SUBSCRIBED, SWORN TO, and returned to me this ____ day of _____,
2019.

**Clerk/ Deputy Clerk
Chardon Municipal Court
Geauga County, Ohio**

Exhibit F

**IN THE CHARDON MUNICIPAL COURT
GEAUGA COUNTY, OHIO**

STATE OF OHIO

COUNTY OF GEAUGA

)
)
)

SS: AFFIDAVIT

I, William Lovell, being first sworn under oath, testify as follows:

1. I am a Certified Fire Safety Inspector, currently employed as an Assistant Fire Chief by the Bainbridge Township Fire Department ("Fire Department"). I have been in this position since 2003. I have personal knowledge of the facts stated in this affidavit.

2. As authorized by the Chief of the Fire Department, I conduct life safety inspections within my jurisdiction pursuant to R.C. 3737.14. I am a Fire Safety Inspector, certified by the Ohio Department of Public Safety under certification number 27955.

3. The Fire Department is responsible for enforcing the various fire safety/hazard abatement portions of the Ohio Revised Code ("R.C."), including Chapter 3737 and all portions of the Ohio Fire Code sections of the Ohio Administrative Code ("OFC", OAC 1301:7-7) within all locations in Bainbridge Township.

4. As a Certified Fire Safety Inspector, my job responsibilities include conducting fire safety inspections for new construction and existing buildings and structures and all premises within my jurisdiction. It is also my responsibility to make final decisions concerning enforcement of the applicable provisions of the OFC.

5. On September 23, 2019, the Fire Department received a complaint of potentially significant fire safety concerns at a school operating on the premises known as Kelly's Working Well Farm, d/b/a Chagrin Valley Schools ("premises"), located at 16519 Franklin St., Chagrin Falls, Ohio.

6. On the morning of September 24, 2019, I conducted a site visit. At the premises, we met with Kelly Clark, one of the property owners.

7. Ms. Clark indicated that she is the owner/operator and that she runs a private school, known as the Chagrin Valley School. She also stated that the School is a non-profit 501(c)(3) organization with a staff of four (4) people, along with additional parent volunteers, and that they currently have 38 tuition-paying students, from ages 3 to 17 years-old, enrolled in the School. The brochure describing this facility also indicates that they are operating a full-time school and daycare.

8. On October 31, 2019, I, along with representatives from the Building, Health, Zoning, Police Departments, and State Fire Marshall's Office. Although we were able to walk around the property, we were asked to leave when the owner arrived.

9. The following conditions were observed at the September visit to the property:

- A. Unapproved heating, including the use of open flame & wood burning stoves inside of structures;
- B. Questionable integrity of exhaust vents and stacks;
- C. Home-made primitive, and unapproved, "rocket mass" style heating in use;

- D. Portable electric space heaters near combustible materials in use;
- E. Unapproved electrical systems, including non-weather proof exterior receptacles; extensive use of extension cords in daisy-chain arrangement with use of trouble lights for interior lighting in place of permanent wiring;
- F. Non-weather rated extension cords providing power between structures in place of permanent-approved electrical wiring;
- G. Extension cords through wall openings and doorways to power between structures in place of permanent approved electrical wiring;
- H. Inadequate fire resistant construction, including structures occupied without a valid Certificate of Occupancy or Building or Fire Dept. approval;
- I. Questionable construction for Educational Occupancy Use Group (E), with Mud Huts and questionable framing, and unauthorized changes of approved and/or acceptable prior uses and occupancy of such structures.
- J. An abundance of combustible wall coverings and decorative materials;
- K. Improper storage of flammable gases, including portable propane tanks stored inside adjacent to open flame devices and exterior near structural door openings and an open flame cooker;
- L. No fire protection or detection devices, including no smoke detectors, inadequate coverage of CO detectors, inadequate coverage of fire extinguishers, with insufficient number and size, some discharged, no annual inspection or mounting;

- M. Inadequate egress, including no emergency lighting, questionable egress door functioning, and no emergency egress plans posted;
- N. An abundance of combustible storage/debris near combustible structures, along with evidence of unauthorized open burning;
- O. Evidence of Unapproved cooking, including in non-UL approved cooking appliances under unprotected combustible overhangs, interior cooking with propane fueled appliances where portable propane tanks were inside of structures, interior cooking appliances adjacent to unprotected combustible wall surfaces, and cooking, warming, and frying where grease laden vapors are involved without kitchen hood, vent or suppression system; and
- P. The ongoing presence of members of the public, including children, within the structures at the site and upon the premises.

10. In order to proceed with enforcement of the Ohio Fire Code, an inspection of all structures on the property is necessary.

11. I believe, after evaluation of the facts of this case that the issuance of an Administrative Warrant is necessary to allow the Bainbridge Fire Department and the State Fire Marshall, along with other officials, to inspect construction and life safety features for the existence of conditions which may be or become hazardous to the public health, safety or welfare or otherwise could be violations of Ohio Law.

Without such an inspection, the structures, or portions of such structures, or the premises at 16519 Franklin St., Chagrin Falls, present a risk of fire or explosion and may

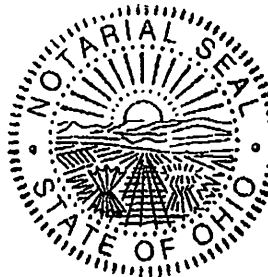
cause harm to persons and children occupying the structures on the property or to such persons responding to an emergency on the property.

THIS CONCLUDES MY TESTIMONY.

William J. Lovell
William Lovell

SWORN TO AND SUBSCRIBED in my presence this 6th day of November,
2019.

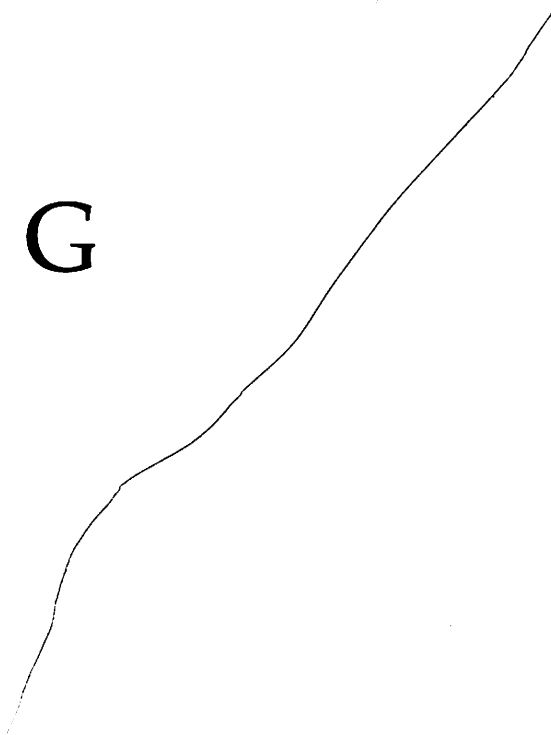
Susan T. Wieland
Notary Public



SUSAN T. WIELAND
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Expires
No Expiration Date
Section 147.03

Me 11-6-19 @ 12:07 PM
Judge Tokai E. Smpica

Exhibit G



Bainbridge Township
Geauga County
Ohio

ZONING INSPECTOR

OFFICES
17826 CHILLICOTHE ROAD
BAINBRIDGE TOWNSHIP, OHIO 44023
(440) 543-9871
FAX (440) 543-4654

REVOCATION OF ZONING CERTIFICATE

Delivered certified mail return receipt requested and posted at the property

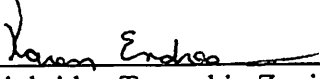
TO: Kelly Clark & William Rowe
16519 S. Franklin Street
Chagrin Falls, OH 44023

DATE: November 7, 2019

You are hereby advised that zoning certificate number 15454 issued at 16519 Franklin St. on May 13, 2016 for a 34' x 26' barn/accessory structure is hereby revoked and declared null and void. Said certificate has been revoked for the following reason(s):

Per Chapter 109.07(a)(4) of the Bainbridge Township Zoning Resolution,
"The work or use is not being conducted in accordance with the approved application and plans."

Further use of the building shall cease pending - determination of an appeal or approval of an extension or until a zoning certificate has been obtained. You have the right to appeal this notice within 20 days of receipt.


Bainbridge Township Zoning Inspector

cc: Facility File No. 4756
Geauga County Building Department
Linda Applebaum – GCPO
Emily A. Collins – Fair Shake Environmental Legal Services

Exhibit H

SERIOUS HAZARD ORDER - 2017 OHIO FIRE CODE

To: Kelly Clark and William Rowe
Kelly's Well Farm d.b.a.
Chagrin Valley School

Location: 16519 Franklin St.
Chagrin Falls, OH
44023

On November 7, 2019, William J. Lovell, a Fire Code Official employed by the Bainbridge Township Fire Department, Certification No. 027955, inspected the above location and observed the following conditions:

Numerous electrical hazards, numerous heating/ventilation hazards, unapproved cooking appliances, improper storage/use of flammable, combustible and hazardous materials, use of construction materials that fail to meet fire code requirements, as well as the lack of fire detection and alerting devices and exit lighting

These conditions constitute a **SERIOUS HAZARD** as that term is defined in Ohio Administrative Code (OAC) 1301:7-7-02, Ohio Fire Code (OFC) 202 and as further described in OAC 1301:7-7-01(I)(1)(c), OFC 109.1.3.

You are **ORDERED** to comply with the OHIO FIRE CODE portions of the OAC (1301:7-7-01 through 1301:7-7-80), including, as required by the Fire Code Official, not occupying and/or allowing occupancy of the above location, until the **SERIOUS HAZARD** is abated by taking the following actions:

Do not occupy or allow occupancy of any structure until removal and/or successful mitigation the all hazardous conditions have been completed and are in compliance with the Ohio Fire Code

Failure to comply with this **SERIOUS HAZARD ORDER** is a violation of the Ohio Fire Code and may subject you to the issuance of a Citation under Revised Code (R.C.) §3737.42, the assessment of a civil penalty under R.C. §3737.51 and other enforcement actions authorized by R.C. §§3737.41 – 3737.51. The **SERIOUS HAZARD ORDER** shall be prominently posted by you at the hazard site at a location observable by any members of the public at, or by any emergency responders to, the site. If this is not done, the Fire Code Official shall post this Order. The Fire Code Official shall convert this order to a Citation as soon as is practicable, which shall provide full Appeal rights to the Responsible Person. This Order is not intended to be a complete listing of all violations of the OFC at this location and compliance with this Order does not necessarily mean that the location will not be subject to further enforcement actions.

 FSI #27955
Name of Certified Fire Safety Inspector/Certification #

11/7/19
Date:

Exhibit I

Bainbridge Township Fire Department, Geauga County, Ohio
CITATION AND ORDER #19-11-07
NOTICE OF PROPOSED PENALTY

Kelly's Working Well Farm d.b.a. Chagrin Valley School
16519 S. Franklin St.
Chagrin Falls, OH 44023

William A. Rowe & Kelly A. Clark
16519 S. Franklin St.
Chagrin Falls, OH 44023

William A. Rowe & Kelly A. Clark
16495 S. Franklin St.
Chagrin Falls, OH 44023

Known as the owner, lessee, agent, occupant or operator of the property described herein and/or being responsible for compliance with the OHIO FIRE CODE (OFC) as it relates thereto, notice is hereby given to the persons whose names are inscribed above (You), as follows:

On the 7 day of, November, 2019, William J. Lovell, a Certified Fire Safety Inspector employed by the Bainbridge Township Fire Department, Certification No. 027955, inspected the following:

Kelly's Working Well Farm
d.b.a. Chagrin Valley School
16519 S. Franklin St.
Chagrin Falls, OH 44023

The Inspector found that there is reason to believe that you violated the Ohio Administrative Code (OAC) known as the Ohio Fire Code (OFC) as described below and, therefore, pursuant to Ohio Revised Code Sections (R.C.) §§3737.42, 3737.43 and 3737.51, a civil penalty has been assessed against you for each such violation as follows:

OAC 1301:7-7-01 (B)(1)(a)(iii), OFC 102.1.1; OAC 1301:7-7-01, (B)(3)(a)(ii)(a), OFC 102.3.1(a); OAC 1301:7-7-01, (B)(3)(a)(ii)(b), OFC 102.3.1(b); OAC 1301:7-7-01, (B)(3)(a)(ii)(c), OFC 102.3.1(c); OAC 1301:7-7-01 (B)(4), OFC 102.4; OAC 1301:7-7-01 (I)(1)(a), OFC 109.1; OAC 1301:7-7-01 (B)(3)(c), OFC 102.3.3: The owner changed the use of the building in violation of the Fire Code and the Building Code. The buildings are now being used as a private school, kitchen and/or dining area.

Civil Penalty pursuant to Ohio Revised Code 3737.51 (B) and/or (C): \$500.00

1. Distinct Hazard (Construction in violation of OFC):

- a. OAC 1301:7-7-01(B)(1)(a)(iii), OFC 102.1(iii);
- b. OAC 1301:7-7-01(B)(3)(a), OFC 102.3.1(ii)(a);
- c. OAC 1301:7-7-01(B)(3)(a), OFC 102.3.1(ii)(c);
- d. OAC 1301:7-7-01(B)(3)(c), OFC 102.3.3;
- e. OAC 1301:7-7-01(B)(4), OFC 102.4;
- f. OAC 1301:7-7-01(E)(3)(c)(iii)(b), OFC 105.3.3.3.2;
- g. OAC 1301:7-7-01(G)(1), OFC 107.1;
- h. OAC 1301:7-7-01(G)(2)(a), OFC 107.2.1;
- i. OAC 1301:7-7-01(G)(4), OFC 107.4;
- j. OAC 1301:7-7-01(G)(5), OFC 107.5;
- k. OAC 1301:7-7-01(I)(1), OFC 109.1;

The responsible person(s) have occupied or permitted the structures at the site to be occupied while the structures constitute a distinct hazard. The structures have been altered, repaired and/or reconstructed in violation of the Ohio Building and Ohio Fire Codes in a manner that constitutes a distinct hazard to occupants, including persons attending a private school. As described more fully in items (4-25) of this citation, the structures either do not have or the responsible persons have not properly maintained essential fire protection system features, including smoke detectors, fire alarms, fire department notification systems, fire suppression systems, emergency lighting, fire extinguishers and/or egress markings. The structures have grossly inadequate and/or unsafe electrical systems, heating systems, and/or cooking operations.

2. Occupancy in violation of OFC and OBC:

- a. OAC 1301:7-7-01(B)(3)(a), OFC 102.3.1(i);
- b. OAC 1301:7-7-01(B)(3)(a), OFC 102.3.1(ii)(a);
- c. OAC 1301:7-7-01(B)(3)(a), OFC 102.3.1(ii)(b);
- d. OAC 1301:7-7-01(B)(3)(a), OFC 102.3.1(ii)(c);
- e. OAC 1301:7-7-01(B)(3)(c), OFC 102.3.3;
- f. OAC 1301:7-7-01(B)(4), OFC 102.4;
- g. OAC 1301:7-7-01(E)(3)(c)(iii)(a), OFC 105.3.3.3.1;
- h. OAC 1301:7-7-01(E)(3)(c)(iii)(b), OFC 105.3.3.3.2;
- i. OAC 1301:7-7-01(I)(1), OFC 109.1;

The responsible person(s) have occupied or permitted the structures at the site to be occupied while the structures constitute a serious hazard to the public and responsible persons. The structures have been altered, repaired and/or reconstructed in violation of the Ohio Building and Ohio Fire Codes in a manner that constitutes a serious hazard to occupants including persons attending a private school. As described more fully in items (4-25) of this citation, the structures either do not have or the responsible persons have not properly maintained essential fire protection system features, including smoke detectors, fire alarms, fire department notification systems, fire suppression systems, emergency lighting, fire extinguishers and/or egress markings. The structures have grossly inadequate and/or unsafe electrical systems, heating systems, and/or cooking operations.

3. Change of Use/Occupancy from Previous Occupancy:

- a. OAC 1301:7-7-01(B)(3)(a), OFC 102.3.1(i);
- b. OAC 1301:7-7-01(B)(3)(a), OFC 102.3.1(ii)(a);
- c. OAC 1301:7-7-01(B)(3)(a), OFC 102.3.1(ii)(b);
- d. OAC 1301:7-7-01(B)(3)(a), OFC 102.3.1(ii)(c);
- e. OAC 1301:7-7-01(B)(3)(c), 102.3.3;
- f. OAC 1301:7-7-01(B)(4), OFC 102.4;
- g. OAC 1301:7-7-01(E)(3)(c)(iii)(a), 105.3.3.3.1;
- h. OAC 1301:7-7-01(E)(3)(c)(iii)(b), OFC 105.3.3.3.2;
- i. OAC 1301:7-7-01(I)(1), OFC 109.1;

The responsible person(s) have occupied or permitted the structures at the site to be occupied while the structures have been altered, repaired and/or reconstructed in a manner that constitutes an unapproved or impermissible change of use under the Ohio Building and Ohio Fire Codes. These changes to the structures have occurred a manner that constitutes a distinct or serious hazard to occupants, including persons attending a private school. As described more fully in items (4-25) of this citation, the structures either do not have or the responsible persons have not properly maintained essential fire protection system features, including smoke detectors, fire alarms, fire department notification systems, fire suppression systems, emergency lighting, fire extinguishers and/or egress markings for the actual occupancy types occurring in the structures. The structures have grossly inadequate and/or unsafe electrical systems, heating systems, egress provisions for the actual occupancy types occurring in the structures.

4. OFC 304.2: The storage of combustible rubbish is creating a nuisance and hazard to public health, safety and welfare. Examples including but not limited to a) kitchen building has loose straw located behind the structure, as well as a couch, b) large amount of firewood and timbers throughout property near structures

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): \$250.00

5. OFC 605.1: Unabated electrical hazards that constitute a shock or fire hazard are present at the following locations including, but not limited to: **A.** Yurt building- broken outlet cover, **B.** Well building- open wiring splices, **C.** Restroom building- open wire splices, **D.** Library building- extension cord ran under the door subject to physical damage, **E.** Kitchen building- open wiring splices on exterior near window, **F.** Main administrative building- open light sockets, **G.** Entire facility- No electrical shut off provided for individual structures.

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): \$250.00

6. OFC 605.5: Extension cords are being used as a substitute for permanent wiring and/or are affixed to the structure, extended through walls, ceilings or floors, under doors or floor covering, or are otherwise subject to environmental damage or physical impact in locations including, but not limited to: **A.** Kitchen building- running coolers on exterior, frost free yard hydrant for light, and outlet strip in sink area, **B.** entire exterior property- extensions cords found throughout the entire property on the ground running to numerous buildings, electrical fencing, and lighting on fencing, etc., **C.** Portable restroom has extension cord running light on top of unit, **D.** Yurt building- extension cords running portable space

heaters, E. Library building- extension cord running up heater stack on exterior, and additional running under door, F. Main administration building running along ceiling, connected to additional extension cords, G. Main structure near driveway/roadway- extension cord running through the door powering a power strip.

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$100.00**

7. **OFC 605.6:** Open junction boxes are present at the following locations including, but not limited to: Throughout entire facility, address all structures.

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$250.00**

8. **OFC 605.6:** Open wiring splices are present at the following locations including, but not limited to: A. restroom building, B. Kitchen building

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$250.00**

9. **OFC 605.6:** Switch and/or outlet boxes are missing approved covers at the following locations including, but not limited to: A. Yurt building, B. Kitchen building

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$250.00**

10. **OFC 807.2:** Curtains, draperies, hangings and other decorative materials, suspended from walls or ceilings do not appear to be noncombustible or meet the flame propagation performance criteria of NFPA 701. Examples where this violation occurs include, but are not limited to: A. Yurt-blanket and a roll paper being used as a wall covering throughout the entire structure, B. Kitchen building- ceiling and walls covered in pallet wood, C. Art & Craft building- ceiling and walls covered in pallet wood, D. Maintenance building- Walls covered in pallet wood, E. Main administration building- Ceiling covered in pallet wood

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$200.00**

11. **OFC 906.2, OAC 1301:7-7-80, NFPA 10 Section 7.3.1.1.1:** Portable fire extinguishers have not had their required annual maintenance in the following locations including, but not limited to: A. All structures located on property

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$250.00**

12. **OFC 906.2, OAC 1301:7-7-80, NFPA 10 Section 7.2.1.2:** Portable fire extinguishers have not been inspected at 30-day intervals in the following locations including, but not limited to: A. Entire facility

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$250.00**

13. **OAC 1301:7-7-01 (G)(1); OFC 107.1, OAC 1301:7-7-09 (A)(4); OFC 901.4, OAC 1301:7-7-09 (A)(4)(a); OFC 901.4.1, OAC 1301:7-7-09 (A)(6); OFC 901.6, OAC 1301:7-7-09 (A)(6)(a); OFC 901.6.1, OAC 1301:7-7-09; OFC Table 901.6.1, OAC 1301:7-7-80, NFPA 10 Section 7.1.1, 7.2.3 and 7.2.2(1):** The responsible person has not taken immediate corrective action to replace the fire extinguisher missing from the previously approved locations including, but not limited to: A. Kitchen- missing from hanger

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$500.00**

14. **OFC 1004.3:** The occupancy load for rooms and spaces used for assembly is not posted in a conspicuous place near the main exit or exit access doorway in rooms and spaces including, but not limited to: A. Kitchen building.

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$500.00**

15. **OFC 5303.5.3:** Compressed gas containers/cylinders are unsecured in the following locations including, but not limited to: A. kitchen building.

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$250.00**

16. **OFC 102.3.2:** The facility is not maintaining a current Certificate of Occupancy on the premises and available to the fire code official for review.

Civil Penalty pursuant to R.C. §3737.51 (B) and/or (C): **\$500.00**

17. **OFC 110.1.1:** Structures and/or existing equipment are deemed to be to unsafe and/or deficient in nature. In locations including but not limited to: A. Homemade, non-listed, open burning devices utilized for cooking and heating throughout numerous structures, B. Kitchen building utilizing open flame turkey fryer with numerous portable propane tanks within structure, C. All structures on the property lack building department approvals for engineering and design., D. Kitchen building- "rocket mass heater/cooker" cooking under overhang of structure, E. Library building upstairs only egress is small ladder to 1st floor.

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$500.00**

18. **OFC 305.1:** Clearance from ignition sources are not being maintained around heaters and cooking appliances.

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$500.00**

19. **OFC 308.1.4:** Open flame cooking devices are not maintained more than 10 feet from combustible construction. Kitchen building has homemade, cooking/heating devices adjacent to structure under overhang, as well as open flame cooking/heating device directly inside structure adjacent to wall.

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$500.00**

20. **OFC 603.6.2:** Heating appliances are not being installed and maintained in accordance with the building code, the mechanical code, the International Fuel Gas code and NFPA 70. A. All buildings

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$500.00**

21. **OFC 603.7.5:** Existing chimney and vent connectors appear to be damaged, or improperly supported in the Library building.

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$250.00**

22. **OFC 605.10.2:** Portable electric space heaters are not plugged directly into approved receptacles.

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$250.00**

23. **OFC 609.2:** A type I hood was not installed above all commercial cooking appliances in the Kitchen building.

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$250.00**

24. **OFC 404.4.2:** An evacuation plan indicating primary and secondary emergency evacuation routes, including proper occupant to building orientation, is not permanently and conspicuously placed at the main exit door in the following, but not limited to, locations: A. Kitchen Building

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$250.00**

25. **OFC 405.1; OFC 405.2; OFC Table 405.2:** The facility has not conducted emergency evacuation drills as required.

Civil Penalty pursuant to Ohio Revised Code §3737.51 (B) and/or (C): **\$250.00**

Wherefore, pursuant to the authority vested in me by R.C. §3737.42 and OAC 1301:7-7-01 (I), OFC 109, you are hereby **ORDERED** to abate the violations set forth above by taking the following corrective measures within one (1) day:

1. **DO NOT OCCUPY** the structures at the site until all building alterations, conditions, repairs and/or reconstruction, including fire protection, electrical and heating systems and egress features, have been approved by the building code official in accordance with the plan review process specified in the building code and in accordance with the Ohio Fire Code. Do not occupy the structures at the site, or any portions thereof, until the structures are in compliance with the current Ohio Building Code and Ohio Fire Code, including approval for the appropriate occupancy categories for the types of occupancy to occur at the site and/or the distinct hazards have otherwise been eliminated as determined by the local Fire Official.

2. **DO NOT OCCUPY** the structures at the site until all building alterations, conditions, repairs and/or reconstruction, including fire protection, electrical and heating systems and egress features, have been approved by the building code official in accordance with the plan review process specified in the building code and accordance with the Ohio Fire Code. Do not occupy the structures at the site, or any portions thereof, until the structures are in compliance with the current Ohio Building Code and Ohio Fire Code, including approval for the appropriate occupancy categories for the types of occupancy to occur at the site and/or the serious hazards have otherwise been eliminated as determined by the local Fire Official.
3. **DO NOT OCCUPY** the structures at the site until all building alterations, conditions, repairs and/or reconstruction, including fire protection, electrical and HVAC systems and egress features, have been approved by the building code official in accordance with the plan review process specified in the building code and approved local Fire Official in accordance with the Ohio Fire Code. Do not occupy the structures at the site, or any portions thereof, until the structures are in compliance with the current Ohio Building Code and Ohio Fire Code, including approval for the appropriate occupancy categories for the types of occupancy to occur at the site and/or the distinct and serious hazards have otherwise been eliminated as determined by the local Fire Official (including resuming occupancy in a manner consistent with the original approval of the structures that is not seriously or distinctly hazardous).
4. Remove all combustible waste materials that are creating the nuisance and hazard.
5. Properly correct/abate the electrical hazards as follows: A. replace outlet cover, B. mitigate open wire splices, C. mitigate open wire splices, D. Remove extension cord subject to physical damage, E. Provide covers as required, F. Install light bulb in open light socket, G. Obtain local Building Official approval of all electrical onsite.
6. Remove all extension cords being used as a substitute for permanent wiring or extending through walls, ceilings, or floors, under doors or floor coverings.
7. Install cover plates on all open junction boxes.
8. Remove or properly repair all open wiring splices in compliance with the current Ohio Building Code.
9. Replace or install new cover plates on all switches and outlet boxes.
10. Remove all curtains, draperies, hangings and other decorative materials suspended from walls or ceilings or provide evidence that the materials meet the flame propagation performance criteria of NFPA 701.
11. Perform the annual maintenance on all the portable fire extinguishers and document the service.
12. Portable fire extinguishers shall be inspected at a minimum of 30-day intervals. Perform the monthly checks on the portable fire extinguishers and document the inspection.
13. Replace the fire extinguisher(s).
14. Post the maximum occupancy load, calculated and approved by the local Building Official, in a conspicuous place near the main exit or exit access doorway from the room or space.
15. Secure the cylinder(s) to a fixed object with one or more restraints.
16. Obtain a Certificate of Occupancy for all structures.

17. Obtain approval by the local Building Official for all structures on the property.
18. Maintain approved clearances as required by the manufacturer around all cooking and heating devices.
19. Maintain approved clearances for open flame cooking devices as approved by the local Building Official.
20. Maintain heating appliances in accordance with the manufacturer's instructions, the current Building Code, Mechanical Code, International Fuel Gas Code and NFPA 70.
21. Repair or replace chimney and vent connectors as found to be deficient.
22. Utilize portable space heaters in accordance with the manufacturer's requirements, and plugged directly into approved receptacles.
23. Install a kitchen hood system approved by the local Building Official and local Fire Official where commercial cooking operations are producing grease laden vapors.
24. Post an evacuation plan indicating primary and secondary emergency evacuation routes, including proper occupant to building orientation, permanently and conspicuously at the main exit door in each room accessible to all persons in all educational occupancies.
25. Conduct emergency evacuation drills as required in OAC 1301:7-7-04 (E)(2); OFC Table 405.2. The drills shall be designed in cooperation with the local fire officials

Additional Civil Penalty for each violation, if not corrected within one (1) day, pursuant to R.C. §3737.51 (D): **\$1,000 per day for each violation that continues past one (1) day.**

Those sections of the Revised Code pertaining particularly to the issuance and process of this citation, together with penalties, are set forth below or are attached to this Citation.

Take notice that R.C. §3737.42 (C) requires the Responsible Person to post this Citation or a copy or copies thereof at or near each place of violation. Failure to prominently post this Citation shall, in accordance with R.C. §3737.51 (E), result in the assessment of an additional civil penalty of not more than one thousand dollars (\$1,000) for each posting violation.

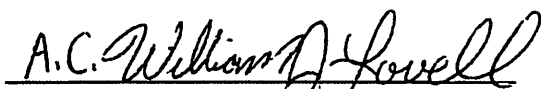
You are further notified that you are entitled to an appeal hearing before the Ohio Board of Building Appeals (BBA), 6606 Tussing Road, Reynoldsburg, Ohio 43068, 614-644-2616, if your request for such hearing is received in the office of the BBA within thirty (30) days after receipt of this citation. A copy of this citation shall be attached to your request. At such hearing, you may:

- 1) present your position, arguments, or contentions in writing; or
- 2) appear in person or by your attorney and you may present evidence and examine witnesses for and against you.

To request an appeal hearing, send a written request to the BBA at 6606 Tussing Road, Reynoldsburg, Ohio 43068 along with a check or money order for \$200.00 made payable to "Treasurer, State of Ohio" to the BBA's address specified above.

Please be advised that if you do not request a hearing within thirty (30) days of the date of receipt of this citation, the citing authority, may, in its discretion, pursue further enforcement of this Citation, Order and Penalty through the common pleas court in the county in which the property is located.

Witness my signature at Bainbridge Township, Ohio, this 9th day of November, 2019.



William J. Lovell, Assistant Chief
Bainbridge Township Fire Department
Fire Safety Inspector #027955

This is to certify that on the 9 day of November, 2019, this citation was mailed to the responsible person(s) whose name is entered on the front side hereof in the following manner.

Certified Mail

For further information regarding this citation, contact the Geauga County Prosecutor's Office

cc: State Fire Marshal
Gauga County Building Department
Gauga County Health Department
Bainbridge Township Police Department
Bainbridge Township Trustees
Emily A. Collins, Esq.

R.C. §3737.42 Issuing citation or notice of violation. (A) If, upon inspection or investigation, the fire marshal, an assistant fire marshal, or a certified fire safety inspector believes that the state fire code or an associated order has been violated, the fire marshal, assistant fire marshal, or certified fire safety inspector shall, with reasonable promptness, issue a citation to the responsible person. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the state fire code or associated order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. When the citation is issued by a certified fire safety inspector or an assistant fire marshal, a copy of the citation shall be furnished to the fire marshal. (B) The fire marshal may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations that have no direct or immediate relationship to safety or health. (C) Each citation issued under this section, or a copy or copies of the citation, shall be prominently posted by the responsible person, as prescribed in the state fire code, at or near each place a violation referred to in the citation occurs. **Effective Date: 03-19-2003.**

R.C. §3737.43 Notice of penalty and right to appeal. (A) If, after an inspection or investigation, the fire marshal, an assistant fire marshal, or a certified fire safety inspector issues a citation under section 3737.41 or 3737.42 of the Revised Code, the issuing authority shall, within a reasonable time after such inspection or investigation and in accordance with Chapter 119. of the Revised Code, notify the responsible person of the citation and penalty, if any, proposed to be assessed under section 3737.51 of the Revised Code, and of the responsible person's right to appeal the citation and penalty, under Chapter 119. of the Revised Code, to the state board of building appeals established under section 3781.19 of the Revised Code within thirty days after receipt of the notice. (B) If the responsible person is aggrieved by an order of the board, the person may appeal to the court of common pleas where the property that is the subject of the citation is located, within thirty days after the board renders its decision. (C) As used in this section, "issuing authority" means the office of the fire marshal, in the case of a citation issued by the fire marshal or an assistant fire marshal, or the applicable township or municipal corporation, in the case of a citation issued by a certified fire safety inspector. **Effective Date: 03-19-2003.**

R.C. §3737.45 Failure to comply with order. If any responsible person fails to comply with an order of the fire marshal, an assistant fire marshal, or a certified fire safety inspector as finally affirmed or modified by the state board of building appeals under section 3737.43 of the Revised Code, within the time fixed in the order, then the fire marshal, assistant fire marshal, or certified fire safety inspector may file a complaint in the court of common pleas of the county where the property is located for a court order authorizing the fire marshal, assistant fire marshal, or certified fire safety inspector to cause the building, structure, or premises to be repaired or demolished, materials to be removed, and all dangerous conditions to be remedied, if such was the mandate of the order as affirmed or modified by the state board of building appeals, at the expense of the responsible person. If the responsible person, within thirty days thereafter, fails, neglects, or refuses to pay the expense that would be incurred in enforcing the order of the court of common pleas under this section, the court shall order that the real estate upon which the building, structure, or premises is or was situated be sold pursuant to Chapter 2329. of the Revised Code, except as otherwise provided in this section. The proceeds of the sale shall be credited to the fire marshal's fund. The fire marshal shall use the proceeds of the sale to cause the repair or demolition of any building, structure, or premises, the removal of materials, or the remedy of all dangerous conditions unless the purchaser of the real estate enters into an agreement with the court to perform the repair, demolition, removal, or remedy within a time period acceptable to the court. No bid of a prospective purchaser shall be acceptable which is insufficient to pay the expense that the fire marshal would incur. If the amount received from the sale exceeds the expense that the fire marshal would incur, the court shall direct the payment of the surplus first to those parties with encumbrances, mortgages, or liens on the real estate in order of their priority, and then to the responsible person or into the court for its use and benefit. **Effective Date: 03-19-2003.**

R.C. §3737.51 Civil Penalty for violations. (A) No person shall knowingly violate any provision of the state fire code or any order made pursuant to it. (B) Any person who has received a citation for a serious violation of the fire code or any order issued pursuant to it, shall be assessed a civil penalty of not more than one thousand dollars for each such violation. (C) Any person who has received a citation for a violation of the fire code or any order issued pursuant to it, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of not more than one thousand dollars for each such violation. (D) Any person who fails to correct a violation for which a citation has been issued within the period permitted for its correction, may be assessed a civil penalty of not more than one thousand dollars for each day during which such failure or violation continues. (E) Any person who violates any of the posting requirements, as prescribed by division (C) of section 3737.42 of the Revised Code, shall be assessed a civil penalty of not more than one thousand dollars for each violation. (F) Due consideration to the appropriateness of the penalty with respect to the gravity of the violation, the good faith of the person being charged, and the history of previous violations shall be given whenever a penalty is assessed under this chapter. (G) For purposes of this section, a serious violation shall be considered to exist if there is a substantial probability that an occurrence causing death or serious physical harm to persons could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use, unless the person did not and could not with the exercise of reasonable diligence, know of the presence of the violation. (H) Civil penalties imposed by this chapter shall be paid to the fire marshal for deposit into the general revenue fund. Such penalties may be recovered in a civil action in the name of the state brought in the court of common pleas of the county where the violation is alleged to have occurred. **Effective Date: 07-01-1979.**

R.C. §3737.99 Penalty. (B) Except as a violation of section 2923.17 of the Revised Code involves subject matter covered by the state fire code and except as such a violation is covered by division (G) of this section, whoever violates division (A) of section 3737.51 of the Revised Code is guilty of a misdemeanor of the first degree. **Effective Date: 09-28-2006.**

Exhibit J



GEAUGA PUBLIC HEALTHSM

Promoting and Protecting Community Health

470 Center St., Building 8, Chardon, OH 44024-1071
440.279.1900 • www.geaugacountyhealth.org

Thomas Quade, MA, MPH, CPH, FRSPH
Health Commissioner

Dear Ms. Kelly Clark,

On November 7, 2019 this department went out to 16519 South Franklin St Chagrin Falls, OH 44023 at the request of the Bainbridge Fire Department. This department was asked to provide observations of this facilities kitchen. The observations are as followed:

Outdoor kitchen/prep area

- Under a roof against the kitchen building, has only one wall.
- Three sides of the outdoor kitchen/prep area are open to the elements and animal activity
- Not enough adequate lighting.
- Dirt floors with straw.
- No 3 compartment sink to wash, rinse and sanitize utensils and equipment.
- No designated handwashing sink.
- Floors, walls and ceiling not smooth easy cleanable.
- Non-commercial grade equipment:
 - Pizza oven/gas powered burners made of straw and clay.
 - freezer
 - microwave
 - Gas powered burner
- The two door refrigerator
 - No date marking on the food.
 - Unidentifiable food stored in mason jars.
 - Unidentifiable homemade canned food.
 - Mushrooms from an unidentifiable source.
 - Damaged gaskets
 - Shelves and fan guards have debris build up
 - Unit has a strong odor.
 - Cannot determine if the food came from an ODA inspected and approved source.
- Stainless steel prep tables stored out in the elements next to an animal enclosure.
- Unprocessed wool stored in bags next to stainless steel tables and microwave.
- Outdoor garbage disposal not plumbed. Has a catch bucket underneath.
- Animal cages with feces are stored in the outdoor kitchen area.
- Leather couch stored in outdoor kitchen area.
- Door leading to the indoor kitchen has a cat door.

Indoor kitchen area

- Floors, walls, shelving and ceiling not smooth, easy cleanable and non-absorbent.
 - Flooring – paving stones used for patios
 - Walls, shelving, ceiling – rough cut wood planks.
 - Peg board near sink
- Wicker basket next to stove are not smooth, easy cleanable and non-absorbent.
- Excessive dust, debris and clutter build up throughout the entire kitchen area.
 - Empty cardboard boxes throughout
 - Papers scattered throughout the dining area



- Excessive dust and debris build up on the counter space.
- Cat observed sleeping in front of the wood burning fireplace in the kitchen area.
- No 3 compartment sink to wash, rinse and sanitize utensils and equipment.
- Using sponges to wash dishes, which is not an easily cleanable sanitary item.
- No designated handwashing sink.
- Wastewater from residential sink does not go to an EPA approved sewage treatment system.
- Portable restroom with no handwashing sinks. Only hand sanitizer is available.
- Unshielded light over the sink.
- Foam box without a bottom, built around the unshielded light over the sink.
- Improper drying, cups and utensils were drying on a soiled cloth.
- Non-commercial grade equipment:
 - Residential stove – powered by a propane tank
 - A portable cast iron propane burner in the middle of the kitchen.
 - Toaster oven
 - Food processor
 - Crock pot
- Excessive food debris build up in the cooking equipment
- Dried mushrooms in bags and mason jars – source unknown
- Spices missing ingredients labels.
- Canning tomatoes and other items
- Chemicals stored next to food contact surfaces.
- Chemicals stored next to food
 - Sodium hydroxide stored next to vegetables
- Chemical spray bottles not labeled.
- No sanitizer
- Fly traps next to or over food contact surfaces throughout kitchen.
- Soiled cloths stored on food contact surfaces
- Utensils stored handle side down
- Latex dishwashing gloves
- No gloves for food handling
- Food, potential temperature controlled for safety items, stored at room temperature.
 - Eggs
 - Mason jars with unknown contents
- Heavily soiled jars and utensils throughout the kitchen area.
- Composting food waste
- Garbage pickup schedule – unknown
- Outer openings are not designed to prevent pests from entering the kitchen.
- No designated prep sink with an air gap to wash fruits and vegetables.

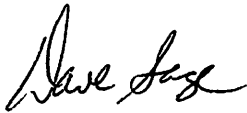
Dry storage area

- Outdoor access only.
 - Half door and a curtain.
 - Animals have access to the dry storage area.
 - Not designed to prevent pests from entering.
- Mouse excrement found in cabinets and cabinet drawers.
- Floors, walls and ceiling not smooth easy cleanable.
- Food contact surfaces stored on the floor.
 - Pots and pans
- Non-commercial grade equipment:
 - Crock pots

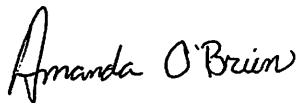
- Unprocessed wool stored next to pots and pans
- Unprocessed wool used to insulate pipes.
- Chemicals stored near or above food.
 - Mini propane tanks
 - Chemical cleaner
 - Bleach
 - Tiki fuel
 - Bug spray
 - Soap
- Excessive dust and debris build up throughout the dry storage.

Based on the current state of this facility, this department would not be able to license this facility unless renovations have been made that comply with the Ohio Uniform Food Code. According to the schools handbook, "School members are required to pack a lunch, including preschoolers. There often is food available at school however it is not consistently provided and may not meet all dietary preferences." Please be aware if your school is providing lunches or food for fund raisers a food license must be obtained from this department. If you are conducting these activities and do not obtain a food license from this department we will forward this matter to the prosecutor's office for legal action.

Sincerely,



Dave Sage, RS
Director of Environmental Health



Amanda O'Brien, R.S.
Field Sanitarian

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