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Senate Environmental Conservation Budget Hearing Testimony  
February 7, 2018

Good Day. My name is Robert Carpenter, Administrative Director of Long Island Farm Bureau. Long Island Farm Bureau is a membership association comprised of farmers that represent the agricultural industry on Long Island.

I am here to represent Long Island Farm Bureau on behalf of the farming community on Long Island to respectfully request that you include the attached draft legislation in your SFY 2018-2019 One House Budget to insure that buildings and structures necessary for bona fide agricultural production are permitted on privately owned farmland when interests or rights in real property are acquired by municipalities for the preservation of lands under General Municipal Law Section 247.

In the early 1970's, Long Island was rapidly facing a conversion of farmland to housing as suburban sprawl made its way out from New York City. At the time, Suffolk County Executive John V.N. Klein worked with the farm community to develop the first farmland preservation program in the United States. The basic premise for this program is that farmers who wanted to preserve their farmland would sell to a municipality a portion of their "rights" (in this case the right to develop their land for houses) for cash consideration and in return the municipality would place a restriction on their land that the residual or fee simple be used for farming purposes. This unique program is truly a public/private partnership where farmers own and maintain the land while the municipality owns a specific right in the land. The intent of the program was to keep "working lands" available to farmers who entered the program and available for future generations of farmers. Please let me be clear about this - The Farmland Preservation Program is NOT intended to be an open space program, but a working lands program. Farmers who entered the program never agreed to limit their land to the restrictions applied to open space nor did they give the municipality or anyone else the right to determine what happens on that land other than what is defined in the easement language.

Our Farmland Preservation Program has worked extremely well on Long Island with Suffolk County purchasing this defined right on over 10,000 acres of farmland and has spawned additional programs throughout other townships that have preserved approximately 10,000 as well. As many of you may be aware, this concept has made its way throughout not only New York State, but many other states across the U.S.

This program is now being threatened by a decision rendered by Justice Thomas Whelan in September of 2016 whereby his interpretation of GML 247 was viewed as an open lands program and the judge in his decision ruled that Suffolk County could not permit buildings and structures on preserved land. Today's agriculture requires infrastructure on farmland in order to be able to farm. Structures such as barns to house equipment or animals are vital (or in some cases required by law). New food safety regulations require additional measures to ensure that our food is safe and secure which will require infrastructure such as indoor washing stations or refrigerator units. Greenhouse production is also a form of agriculture and many farmers are considering growing food in greenhouses as another avenue of production. Fences, irrigation wells, trellises, and other means of production are also considered

structures by code and are necessary for farmers to be able to farm. This decision could essentially render agricultural operations powerless on preserved land unless something is done to correct this situation. Additionally, the uncertainty of what farmers will and will not be able to do with their land in the future will prevent further preservation of farmland. This legislation if passed will provide the necessary surety to farmers so they know they will be able to continue their farming operations. Currently the decision is being appealed, but we ask you to ensure the future of our program by including this legislation in the budget. Our farming industry is too important to leave to a decision of non-farming judges.

Long Island's agricultural industry is one of the top agricultural producing areas of New York State. With almost 40,000 acres in crop production and 240 million dollars in annual sales of products, agriculture remains an economic and social benefit to the region. However, with increased costs of production, new regulations, and pressure from outside sources, LI's agricultural industry remains at a crossroad. This decision, if left to stand as is could undo 40 years of efforts by many individuals who have worked timelessly to preserve our industry. New York State and Governor Cuomo routinely support agriculture in the state budget to the tune of hundreds of millions of dollars to fund programs for economic and environmental protection, promotion of agriculture, and funding for our SUNY System and Land Grant College (Cornell) for research and education.

Additionally, Suffolk County Executive Steve Bellone is requesting New York State's help in solving this problem. Our Suffolk County legislature passed a home rule message (17-0) in support of a bill last year to rectify this untimely decision. Long Island is always at the mecca of current happenings and people have come to realize that what happens on Long Island today usually makes its way through the rest of New York State eventually. This legislation that will change state law and help protect farming on preserved land in towns and counties and in state programs today and in the future.

We ask that you add the attached legislation in the budget to ensure that structures and buildings used for bona fide agricultural productions be allowed on preserved farmland as noted in GML 247.

**AN ACT to amend the general municipal law, in  
relation to open lands actually  
used in bona fide agricultural  
production**

The People of the State of New York, represented in Senate and  
Assembly, do enact as follows:

1           Section 1. Notwithstanding any provision of law to 1 the contrary, all  
2 interests or rights acquired in real property for the preservation of agricultural  
3 lands pursuant to section 247 of the general municipal law do not and have not  
4 constituted an alienation of the owner's right to use the land or to construct  
5 buildings or structures for bona fide agricultural production and such acquisitions  
6 shall permit the use of such land for bona fide agricultural production pursuant to  
7 state and local law; and the granting of a permit for uses, buildings or structures  
8 on such real property that are necessary for bona fide agricultural production  
9 shall not constitute alienation of any interests or rights in real property acquired  
10 for the preservation of agricultural lands, pursuant to this section.

11           §3. This act shall apply to all interests or rights acquired in real property by  
12 any municipality for the preservation of agricultural lands, pursuant to section 247  
13 of the general municipal law, now-owned or hereafter acquired.

14           §4. This act shall take effect immediately.

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