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Talk It Out

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Richard Amper, the longtime executive director of the Long Island Pine Barrens Society, has a pugnacious style that generally has served him well over the years in battles with the development community, and sometimes with elected officials, with the goal of protecting the region's most environmentally sensitive lands. But one fight has put him at odds with people and groups who are normally in his corner—and that's a sign that it might be time to drop the fists and talk things out instead.

Mr. Amper brought a lawsuit against Suffolk County over changes to its farmland preservation program, which has preserved more than 10,000 acres since 1974 and serves as a template for similar efforts elsewhere, including on the East End with the Community Preservation Fund. In 2010 and 2013, the County Legislature amended the program to make clear that those who own preserved farmland could still erect barns, fences, irrigation systems and other accessory structures to support their agricultural operations.

Mr. Amper, in court, argued that only the voters who created the farmland program could make those kinds of changes, via referendum. In September 2016, a State Supreme Court justice agreed. The matter is now before the Appellate Division; oral arguments will begin next week.

The stakes could be high. It's a longshot, but if the ruling stands, it's possible that a court could later decide that it's a significant enough change to a contract struck with a farmer that it voids the contract altogether. That could mean—again, a doomsday scenario that's unlikely but not impossible—that a lot of preservation, by the county and others, will be at risk.

Mr. Amper is not without a reasonable point: When precious farmland is preserved, it seems unreasonable to think someone should be allowed to, say, build a massive concrete- floored greenhouse on that land, something that has happened on at least one property preserved by the county. Taxpayer money bought the development rights, and, he argues, taxpayers should decide whether this is acceptable, not elected officials— especially since "related structures" might include wineries, farm stands and other uses.

But a little common sense is in order. What taxpayers want preserved, via the county program and the CPF, is agriculture. An open field is better than a developed field, but it's still not equal to a field under cultivation by row crops. And all are better than a private horse farm, which courts allow on the properties, but which contort the very

notion of “farm life” that spurred these efforts in the first place.

The answer is that some activities related to agricultural uses are logical parts of what any reasonable person pictures on a “farm,” including barns, irrigation, fences, etc. Greenhouses are going to be essential to some uses, though they should be supplemental and not primary. A preserved “farm” might feature all of these, and even a small farm stand. “Farm is a verb,” is how Suffolk County Legislator Bridget Fleming put it, succinctly.

The solution is through legislation—not another referendum. State Assemblyman Fred Thiele and State Senator Ken LaValle have such a bill with bipartisan backing. It’s likely that Albany officials will wait to see what the courts do first. The best solution would be for the lower court’s ruling to be overturned, and for the matter to be clarified legislatively.

Mr. Amper should have a role in doing that, as should all the other groups that have submitted briefs in the case on the other side— including the Peconic Land Trust, the Long Island Farm Bureau and the League of Conservation Voters. Working cooperatively around a table, and not in a court of law.