



CONSTITUTION OF MONTANA -- ARTICLE XII

SECTION 1. AGRICULTURE. (1) THE LEGISLATURE SHALL PROVIDE FOR A DEPARTMENT OF AGRICULTURE AND ENACT LAWS AND PROVIDE APPROPRIATIONS TO PROTECT, ENHANCE, AND DEVELOP ALL AGRICULTURE.

May 3, 2018

Introduction:

Hello, my name is _____ I grew up on 40 acres on the East Shore of Flathead Lake. My parents were public school teachers and owned two orchards on their property with 1500 Lambert cherry trees. Our family did all the work in the orchards for 27 years until my parents decided to sell the largest orchard, remove the lower orchard, and subdivide some of the remaining property. They gifted me a one-acre lot on Flathead Lake which has 150 feet of frontage. This property has now been in my family for over 60 years. My mom and my brother are my neighbors.

History:

My husband and I built a modest 1800 square foot, 2-bedroom home on our lot, paid off our mortgage in 17 years and raised our only child there. In 2008, the property reappraisal saw our taxes skyrocket. We qualified for EPTAP three of four years, regretted and were embarrassed about needing to use it, and explored options to increase our income.

In 2012 we conducted our own feasibility study with regards to installing an orchard on a section of our property which had originally been part of my parents' former orchard. I emailed Lake County and the Department of Revenue extensively; my husband and I researched the cost of fencing, trees, and irrigation; consulted long-time local growers whom we knew; and, requested and received the Orchard Qualification Sheet detailing the practices one needed to follow in order that our orchard be considered a "viable and legitimate ag operation." (Orchard Qualification Sheet received from Lake County DOR Brittany Rech 11-12-12)

Being a former teacher, I am over-the-top about details. In an email to Brittany Rech dated November 13, 2012, I specifically told her our acreage, 1.14 acres, noted that we had an 1800 square foot home on the same property and asked her if there was a minimum acreage requirement were we to put an orchard on our property, that is would the orchard qualify for agricultural status. She responded that there was no minimum amount of acreage for a parcel to qualify. And yes, I still have this email.

So, we decided to become cherry growers in order to keep our property and to supplement our income. We took out a small business loan and used some of our savings to clear about one third of our property, on which we planted and fenced 110 Lapin Cherry trees in the spring of 2013. In 2014, a year after installing the orchard, we completed the paperwork requesting our property and orchard be taxed as agricultural land. These steps were all explained to us by DOR personnel. We received Conditional Ag Status and continued to improve our orchard by installing irrigation; prior to this we had hand-watered our trees throughout the summer. (one year of this)

DOR Rule Change:

In 2015, we again applied for the Conditional Ag Status and were denied based on a DOR rule change which had taken effect January 1st of 2015. The new rule mandated a minimum of 2 acres if the orchard and house shared the same property. It was a moot point it seemed that we had followed to the letter all the requirements on the Orchard Qualification Sheet issued by the very same DOR who had granted us Ag Classification in 2014! They were changing the rules mid-game and telling us our efforts, time, and money now meant nothing. Our property taxes reflected the loss of agricultural status, nonetheless we of course continued to care for our orchard, investing time and money.