

This is a follow-up for the preliminary Orange County Value Adjustment Board [OCVAB] hearing, held Friday 5th December 2023. Kupkey Ranch Enterprises (KRE) /Mr. Robert Kupke and subject property owner /Mr. Charles Carden (Charles) were denied Agricultural Classification [AC] on the subject property. We are formally putting this opinion from our side to the Main/ Final Orange County Value Adjustment Board (OCVAB), that will meet on April ?? 2024. Request you please read our side of the opinion. There are many outstanding issues / factors that the Orange County Value Adjustment Board Special Magistrate [OCVABSM] brought up/ missed that need to be addressed before the Final OCVAB meeting. We would like to go before the Final OCVAB to answer any questions or concerns. I formulated the below memorandum with the overall viewpoint for AC in the beginning and then addressed all of the factors the OCVABSM factor / listed afterwards.

I would ask the OCVAB staff, please forward this email to the\*\*Final - OCVAB\*\*, OCVABSM, Orange County Code Enforcement [OCCE], Orange County Code Enforcement Board [OCCEB] and the Orange County Property Appraiser [OCPA]. This memorandum will go into the evidence package for the future OCVAB of 2023. there is some reason that this cannot be accomplished via this medium, please respond back in written format answering this email. I intend to follow up with the OCPA (Mr. Jeff Miller) in the future to discuss some of the below issues. I would like to make it perfectly clear and concise, "I am not a lawyer... I am not trying to be a lawyer.... I am not practicing as a lawyer ...I am a lowly... in the agricultural trenches, Licensed Agricultural Consultant and the below is written in that capacity".

## Post Mission Debrief / Lessons Learned

This is the first time that I have initiated a response back to VAB concerning a recent hearing. I intend to continue this throughout my career as a Licensed Agricultural Consultant [LAC] and Subject Matter Expert (SME). I recently discussed this same issue at our annual American Society of Agriculture Consultants (ASAC) in Fresno California, November 2023. This is being furnished, as a training / learning experience. In my past career with the United States Federal Government, we labeled this as a "Lessons Learned" ...follow-up. Please do not take the below as criticism or hatred for anyone in the local county government. I truly want to make this point clear and precise that all parties associated with this will understand my position... one must learn from their mistakes and this includes me. Unfortunately in the past, one of my "Lessons Learned" was that if you put your head above the partition more times than wanted ....it will eventually get cut off. But past issues within OCPA / OCCE has demanded they come to light and must be discussed . Hopefully, there will be no ramifications or orchestrated harassment due to this Post Mission Debrief / Lessons Learned and what follows. This has happen to me in various counties in the Great State of Florida, for example Orange, Lake, Volusia and Lee County. Also, I do not attest this to be a violation of our unwritten truce from 2008 with Orange County Code Enforcement Board [OCCEB] / local government settlement. The OCPA drew first issue, when they denied my AC for another lease on agricultural propertys for Kupkey Ranch Enterprises [KRE] located in Orange County. In the past since the unofficial truce, the OCPA has denied over five AC requests, which had to go to the OCVABSM/ OCVAB for decision. KRE was quite satisfied with the OCVABSM outcome / decisions. This is until the one in question, now 2023-0030. KRE clearly may have to take this up from a quasi judicial arena into the judicial arena. We still have a ray of hope with this one, as it still must go through the Final OCVAB meeting.

First off I would like to thank everyone who attended the hearing. But the OCVABSM forgot to mention there was a stenographer (court reporter ...also present), so we have a perbatim record of this entire

hearing (for future use). There was a lot of discussions going back and forth about a lot of different issues and items affecting the overall AC for Charles. We submitted evidence (15 October 2023) in a unprecedented pre- hearing time allotment (via your requirements for a timely fashion) to allow the OCPA to respond with enough time for us to respond to their letter of denial. This additional time placed before the deadlines of the hearing procedures was intentionally lengthened to allow a response that could not be denied by the OCPA. Unfortunately, OCPA waited until exactly the time limit of 15 days (prior to the hearing) to submit their letter of denial, therefore, denying us the right to put any more evidence in ...if they did not like it. In the past, I have never had a problem with the OCPA allowing evidence into the hearing at the hearing. During this hearing, this was not a problem or issue. But in other counties, this is a severe hindrance and a clear violation called evidence suppression. Below are some billets of issues that were brought up that I believe should be formerly addressed. This should be both by your organization and the folks up in Tallahassee with legislative control.

A) When a Lease is applied by a Bona Fide Agricultural Endeavor [BFAE] (Lessee)....already receiving a AC.... it should be taken at its face value and accepted as a BFAE. Prior to the VAB hearing, the Property Appraiser [PA] should do his due diligence and confirm that the Leaseholder /Leasee is a BFAE. If the Lessee fails to show adequate evidence supporting their BFAE. Then the PA should give at least a month and a half prior to the VAB hearing such that the applicant & Lessee submit formal evidence. I (KRE) was utterly shocked when this happened to me at this OCVAB hearing. KRE holds over 15 ACs within just Orange County. Also, the PA should not fall back on a form letter that you send out to everyone. This is misleading, as the BFAE / Leasee has no idea that thier operations (Lease) is being questioned for AC accreditation before the VAB hearing.

B) When the PA first gives the letter of denial /notice, there should be a formal list of where the applicant is deficient in a AC. Please in the future, do not just say you are denied of an AC with no written reasons. The current system in the VAB procedure has severe flaws in it. You do not know what you're denied for, until you're actually in the VAB hearing procedure. In this case, the OCPA was given adequate time to respond to our evidence package in a timely fashion (15 October 2023) which would have allowed us to give a response to his letter of denial. The OCPA waited till this time frame ran out and submitted the letter of denial 15 days prior to the VAB hearing (5 December 2023). The whole reason for this endeavor was to show that even if you ask for it early, you still don't get it. Please see attached email. Sorry, facts and theory support issue ....in this OCVAB ....end of story.

C) In my line of work as SME and LAC, I always do a site visit in person. I've had numerous PAs use other people in their organization to do this and then not bring them to the hearing. In all fairness and justice the applicant should be able to cross-examine the PA/ Witness in the hearing who attended the site visit . I have seen this time after time at different counties located within this Great State of Florida and unfortunately this is a common and accepted practice. This even goes farther, when we ask the PA pointed questions and the PA cannot answer it on what another person had witnessed, due to the fact, it was not reported back to them. In my line of work, that is called "hearsay", when they have not the actual person who attended the site survey. I am not quite sure whether or not the OCPA stated he was there taking the pictures at the gate or was it another person. In this VAB hearing the OCPA did not notify the property owner for a scheduled site visit. The property owner (through my request) requested numerous times via phone and personal meetings for the OCPA to come out and view the agricultural operation. There must be "feet on the ground" when you are denying a agricultural operator for your letter of denial. The case factors in this OCVAB hearing showed that the OCPA did not request a site visit nor did they actually go inside any of the back \*\*\*Farm Barn Storage [FBS]\*\*\*\* .....but viewed from a gate +/- 300ft and depended on aerial photos. Unfortunately the way the system is set, the PA is looking

at property the next year for the year before. As in all agricultural operations, things change daily, this is a common Best Management Practice [BMP] for a agricultural operation. If no equipment comes and goes or just sits in the FBS forever .... it will be used. KRE equipment/hay was stored in the FBS in 2022, 2023 and 2024, and dispersed or sold within the KRE operations throughout the state. The OCPA stated the site survey was on 26 April 2023 . How does OCPA know what was there in 2022 and early 2023?? This does not mean that equipment or supplies are not used, may not be used tomorrow, next year or 10 years from now.

D) In this hearing, the OCCE has prior involvement. The OCPA stated there was OCCE actions against the property, but he should have noted, that if the AC is granted .... everything concerning this case would be moot. From the very beginning of the OCCE onslaught, Charles contested the elicit orders against their family farming operation. Charles bought the subject property back in 1981 and started FBSs ever since then. KRE equipment was clearly seen on site during these initial site visits (OCCE), as there were signs on various equipment with the KRE logo. In the past history, OCCE clearly violates State Statutes and continued to do it. This should be taken into account by the OCPA, as the property owner must comply with OCCE orders and then try to meet the requirements of the OCPA for their AC. In this case, the property owner might have already had thousands of dollars in fines, if Charles did not remove all his /KRE's outside equipment and supplies. Then the OCPA stated... he saw nothing outside to justify a AC. One cannot have it both ways with this one. Potential fines amassing daily or leave KRE's equipment on site for a AC. In my personal SME /LAC and judicial court supported procedures ; I believe we did the correct procedure and removed everything outside and only the FBS still had the code violation continuing (we couldn't remove the FBSs and put them somewhere else). Just following the directions of the OCCE's Representative, KRE & Charles experienced great financial costs and pain and suffering. If this case had moved to the OCCEB and was heard, we would have stated "we wanted to go through our administrative remedies" to the OCPA for closure. KRE did not want to bet on a decision by the OCCEB to allow administrative remedies, as in the four past denials, (KREs & Allen Davis) they completely ignore them. Now that the OCVABSM has reached a decision UN--favorable for us, this action by the OCCEB is now in full action. This is identical to the case of Mr. Alan Davis versus OCCEB, where KRE eventually won through the 9th Circuit Court order, as KRE now owned the property,. and all liens were removed..

E) In this OCVAB, we requested an audience before the Orange County Agricultural Advisory Board (OCAAB). We were similarly denied of giving our presentation to our peers within the OCAAB for discussion. We even went so far as to request "no formal opinion requested from the OCAAB" just give us a chance to give the reason why there are problems with anyone in Orange County trying to get a AC". The final outcome from this was that the OCAAB would give us 3 minutes in public discussion at the very beginning. This is woefully not enough time (we need ++one hour) to give all the issues that are facing any agricultural operation within the Orange County borders.. It was stated offline that OCAAB cannot do this, due to the reason, of the OCAAB can only give opinions to Orange County Government. Also, it was said that the entire OCAAB did not vote on this issue, it was the decision of the OCAAB's Chairman. Mr. Camm is the POC for the OCAAB and I am sending a copy of these issues to him. I request Mr. Camm, forward this memorandum to all members of the OCAAB, for future reference. KRE stated "we did not want a formal opinion from them ...we just wanted to notify them of serious problems within the Orange County codes and ordinances and PA that is affecting all agricultural operations". KRE main office is located within Orange County. In the past, KRE has had many instances with Orange County Government operations concerning the KRE agricultural operations on main site. My LAC / SME Agricultural Consulting Business operates throughout the State and exposes issues that are a hindrance, shortsightedness, illegal actions, local governmental discrimination and direct violations of State

Statutes affecting local agricultural operations. In my professional opinion, I believe this would clearly come under State BMPs. In discussions with the folks up in Tallahassee, the reason why County Agricultural Boards were first initiated in the counties was to stop misinformation from propagating through the local County Halls. The agricultural members of the board (actual Farmers and Ranchers) were requested to give their inputs on local County Government / Business. I am in bewilderment of why we were denied access to show our case before the OCAAB and other issues that we have uncovered. Again, I formally ask for a meeting with the OCAAB to discuss the above issues in this "Lessons Learned" information/ concerns. It is clearly better late than never in this case. Hopefully, Tallahassee Legislation can remedy this deficiency. Please see the below attached email in support of this item.

F) Another item that was touched on but not readily discussed in the OCVAB (we didn't even go over our timely submitted evidence package, due to what I believe was time restraints or (at that period, during the hearing) the fog was lifted on the OCVABSM with issues of State Statute exemption concerning Farm Buildings (ss 604.50) and the Right to Farm Act (ss 823.14), in regards to this agricultural operation. During the initial OCCE, it was stated by their OCCE Representative, that even though KRE was actively leasing the subject property, the agricultural FBS located on the site where illegal by Orange County zoning / ordinance law. This is utterly strange as these FBSs were built prior to 2010 under the ss604.50. During this time frame of 2010, then OCPA, Mr David Fiskham actually toured the site in his OCPA Agricultural Representative capacity. I firmly believe this is why the FBS has lasted for over +++ 40 years without incident from the OCCE+++. Similar OCCEB action happened against KRE in 2019 on the Mr. Allen Davis (844 Sable Palm Drive Christmas, Florida) leased property. KRE was actually in the 9th Circuit Court of Orange County with a Quiet Title - civil issue outstanding, but the OCCEB totally disregarded all Florida State Statutes, due process and administrative remedies similar in this hearing (OCCEB administrative fines amassed to over \$30,000) - due too a severe injury that left myself crippled, in August 2019 ... while trying to move the KRE office complex, (note: distance a mere 20 ft to the next AC KRE owned property) but the court order stopped it and later KRE received AC on this property. Outcome - all administrative fines were removed by OCCEB, but no requested apologies were submitted from OCCEB. Back to this OCVAB hearing, all KRE equipment located outside, had to be removed from the site or face pending the same type of administrative fines. Due to past practice(s) of OCCEB, KRE removed all farm supplies / equipment outside and put some inside the FBSs. KRE's contracted trucking (18 wheeler tractor and three tractor trailers) was on site but had to be relocated to a truck/ trailer storage facility located nearby.

G) There was quite a discussion concerning Florida Tangible Tax (FTT). The OCPA Lawyer wanted to know everything about KRE tax status and ownership in this issue. I was under the firm belief that there was a \$50,000 exemption for agricultural operations that have the AC. I later found out after the OCVAB hearing that it is only \$25,000. This was confirmed by my CPAs and other sources. This is one that I was completely wrong on, and I firmly admit to being wrong on this issue. But this raises an interesting point. Why does not the Florida Agricultural Community have an extra \$50,000 or \$\$\$\$\$ FTT exemption. Just like the AC is a property tax break, given to the BFAEs. The folks in Tallahassee are always trying to find out ways to help the small and large BFAEs. This tax break could be legislatively enacted to help this Florida downtrodden AC -agricultural operations. A tier system could be enacted dealing with the size of the BFAE -agricultural operation. At my next Legislative Meeting with the Florida Cattlemen's Association, I'm going to bring this up as a issue, like the last one we had on the Florida Sales Tax, dealing with the Florida Department of Revenue, with great success.



H) Agricultural Operations Site [AOS] - It was discussed during this OCVAB about a primary usage 5000-AOS. The subject property was submitted to the OCPA for AC as a AOS. I gave an example of the location where one already exists for KRE at 19733 Lake Pickett Road Orlando, Florida, 32820. This was submitted to the OCVABSM using the OCPA website describing KRE property, as additional evidence submitted during the hearing. The subject property is well valued by KRE, due to the immense Farm Barn Storage [FBS] at over 10,000 sq ft under roof. OCPAR stated AOSs are typically located adjacent to a active agricultural operation. This does not seem correct by my formal education and BMP's concerning it's "required location adjacent an active agricultural operation". Many times AC agricultural operations are located miles away from a AOS location. An excellent example is all the ACs leased and owned by KRE (15 AC sites) just within Orange County or adjacent and also miles away from each one. It is preposterous to state, AOS (with AC) must be adjacent to another for AC to qualify.

I) Lightly discussed at OCVAB....The main reason why KRE wanted to lease the subject property was for the enclosed FBS capability. The years prior to the KRE' site lease, Charles used these FBS since 1982 for commercial livestock, hay storage and oakwood - firewood aging. KRE during 2021 to 2022 lost all of its capacity to store inside / enclosed commercial livestock hay. This was caused by a Lake County Code Enforcement Board [LCCEB]. Again with this LCCEB, all State Statutes and BMP's standards were submitted at the LCCEB hearing, but the LCCEB ordered all the unpermitted buildings to be demolished (KRE did not have approved permits to build them - agricultural buildings ss604.50). Again it should be noted, when you go before a local county governmental code enforcement board they do not understand the State Statutes, Federal Law and believe their local county ordinances/laws apply. This has been a problem throughout Florida for all small agricultural operations, that do not have their AC in place. No AC means no Florida / Federal Law protection, this is not the way, in my opinion, the FDACS intended the State Statutes to be interpreted. This is another reason where the system is breaking down. Legislative action needs to be taken immediately, as these FBS were clearly used by a BFAE on agricultural operational properties and now destroyed. KRE built these FBS in the early 2000 under ss604.50. KRE leased this property from the Lake County resident for BFAE agricultural use. But unfortunately, the Lake County owner / resident did not want to get a AC. This decision by her, cause great hardship for the KRE operation. Under force of LCCEB administrative fines of \$1,000 a day, KRE reluctantly destroyed the FBSs and allowed all the commercial hay that was stored in these buildings, to lay on the ground outside (not covered). Anyone would know by BMP's, that commercial hay cannot be left outside, uncovered and expected not to become moldy. Only cows can eat this hay when it is in this condition. KRE suffered great financial loss in this calamity, as KRE could not sell the hay commercially. KRE eventually used the hay to feed KRE's cow/ calf operations at other KRE sites and gave the rest away to other cow / calf operations. KRE believes it was fate that allowed them to use the Orange County FBS agricultural site of Charles with the FBS for the hay crop of 2022 (for \$1,000 Lease payment). Currently, the 2023 KRE Lease payment is \$10,000 per year. OCPA was aware of all of this, as I told OCPA about this before it happened, while it was happening and after it happened. I am in complete bewilderment of why OCPA did not want a "feet on the ground" tour of these FBS complex prior to their AC decision. The commercial hay from 2022 was sold and used by KRE, out the door. And the new hay crop of 2023 is now in the FBS complex, being used and sold daily.

J) Not discuss at OCVAB.... Notification of who actually reported the subject property to the OCCE for code, zoning, ordinance violations. We have asked OCCE's Representative... who was the private citizen that reported us??? ..... there are written laws governing this issue..who cause all the nuisance issues at this location. To this day, we have not received any confirmation for a private citizen nuisance issue. I still believe the Right to Farm Act (ss 823.14) was and now in effect, even though the subject property has not received the AC.

K) Request for Florida Attorney General's Opinion [FAGO]. Throughout this entire case / hearing we requested intervention by the FAGO. This was summarily denied with no reason given. During the OCVAB the OCPA Lawyer stated that this would be a NO-GO ..even if OCPA wanted to go... tried before in another case/hearing. .. with it to the Florida Attorney General. I am a complete bewilderment on this, as all the information and intel that I have on this issue clearly shows that Orange County Government could have went to the Florida Attorney General for FAGO. I even showed OCVABSM in my evidence package, where there were numerous FAGOs addressing farm buildings and farming operations, asked by local County Governments. I've learned in the past that "sometimes you do not want to ask for something ...if you know they're going to say no and not support you".. I firmly believe that the Florida Department of Agriculture and Consumer Services [FDACS] needed to have some say on this issue. As you know, it is basically illegal for them to intercede in this lower quasi judicial arena. I also believe that FDACS would have formerly stated there are many BMPs that were violated by this local County Government doctrine.

L) Statement by OCPA.... the OCPA stated.. is a self-governing rule basically. What happens in other Florida Counties by the local PA has no president or bearing on what they do in Orange County. Other counties across the State of Florida - AC issues are completely different across the board. I have personally seen this in my LAC /SME Agricultural Consulting Business. It's strange how the quasi - judicial nature of the local county governments far different from the Florida and United States Judicial System. It is not and I repeat "not equal enforcement of the law". This was clearly seen by my case Kupke versus Orange County (State) and Kupke versus Orange County (Federal). This needs to be addressed by the folks in Tallahassee, as small agricultural operations -BFAE across the state are being greatly impacted, when they are not allowed/ denied AC. Gianolio vs Markham FCOA, 4th District, case number 88-3477 states "HN3 - although it is presumed that the determinations of the property appraisers are correct, the presumption is reputable, if the taxpayer can demonstrate that the property appraiser abused his discretion or failed to follow the required statutory procedures, his determination cannot be entitled to the presumption of correctness".

Below is my written rebuttal to the OCVABSM factors.

I am now going to discuss the recent denial of AC on case number 2023 -00030. I will discuss the different factors that the OCVABSM has outlined in his opinion. It was brought up during the hearing that OCPA makes their own rules (see Item L above). Therefore, I will only use Orange County Properties that KRE either owns or have active leases on them. They are listed by the OCPA as AC (15 sites) in Orange County. Unlike the above (formal style), the below will now be written in a format that I typically use for the less lawyerish type person (agricultural like-minded people). I work in a lot of agricultural organizations and where lawyerish is not always used. Please forgive me, as I have found that this style of writing is one way that the folks up in Tallahassee to continue to read it because it is entertaining. My wife, Anita states this style of writing is humorous and steps on many people's toes. I am truly sorry if this happens, but it must happen to tell the KRE story. My understanding of the makeup of the OCVAB, is that it is comprised of ordinary Orange County Citizens who volunteer for this position. I'm writing the below so that they can understand from an agricultural viewpoint, what exactly needs to be said and reviewed for a AC on a piece of Orange County property. I will go through what the OCVABSM states... Factor by Factor and addressed each one. Sorry for some of the overlap though because they are very similar in Factor as First Factor and Second Factor...etc. In agricultural related terms, "So now that OCPA and the OCVABSM has thrown their MUD..... now it's time for KRE TO HOSE

OFF ourselves and throw some KRE MUD". KRE will now go from the "defensive mode to the offensive mode in our viewpoint".

First Factor: Length of time the land has been used... it was stated that the subject property was not used for BFAE. At the closing of the hearing, we requested only that only two acres be approved for AC. Where the FBSs location is in the center of the agricultural property (also surrounding the FBS) and egress to / from ( down the east side of the property ) that area to/via Trevarthon Road (exit). The OCVABSM should have stated this straight out in his findings and just looked at this concise condensed AC issue . Not quite sure why the OCVABSM went through all the FOGGING. My personal definition of **\*\*fogging\*\*** - the real truth is like a beacon but it is covered up by the well-placed and intentional fog around it. This is a common practice by a fogger who tries to sway opinion by not letting one see the true meaning of the issue. The OCVABSM was aware there is a homestead listed on the subject property, which automatically - one acre goes to the homestead - by State Law - not able to have AC and given a new parcel number when a AC is granted on the subject property (example 19749 Lake Pickett Road, Orlando - homestead) carved out from original parcel, noted on property record as agricultural property 19749 Lake Pickett Road Orlando - agricultural. The subject property ...if it had received the AC would have had this OCPA action carried, out listing the two properties separately with new parcel number. Supplied information by the OCVABSM states " multiple residences and unrelated non-agricultural businesses... this statement has no bearing in my belief, as this is not even able to get the AC on this section of the subject property. And they're clearly was a agricultural business being conducted on this property. **\*\*\*Now for the first elephant in the room\*\*\*** . Please do not use "a residence" for the term "intended use of the property or current use of the property" as we did not ask for this for the homestead parcel to be AC. If you kindly read the governing ss193.461 2(d) "When property receiving an agriculture classification contains a residence under the same ownership, the portion of the property containing the residence and cartilage must be assessed separately, pursuant to ss193.011 to qualify for the assessment limitations set forth in ss193.155. The remaining property maybe classified under the provisions of paragraphs a and b". The OCVABSM seems to miss the point, what's left over after you've removed the residence, there are over 10,000sq ft of FBSs in this selected future AC location. In discussions with the OCPA, Mr. Jeff Miller at the Orange County Farm Bureau meeting on 2 October 2022 ( I sat at his table and discuss this verbally) of the KRE's game plan for this AC and when the first to last FBSs were built and why (to this date he has not answered that question). It seems that Charles cannot remember exactly when it first started, but he believes it to be back around 1982 KRE has personal conflicts with the Orange County Building Department in 1995 (Location 19711 Lake Pickett Road Orlando). KRE was forced to stop work by a "red tag stop work order" due to the fact KRE was building a "STEEL constructed pole barn" located on this property. It was stated by the Orange County Building Department that agricultural pole barns "poles" cannot be made of steel but must be made of telephone poles (wood) - minimum of a 8-in caliper. Outcome from this action, caused ss604.50 to be written into our State Statutes (thank you... Orange County ...from every Agricultural Activity in the State of Florida). KRE's case was the cornerstone for this Florida State Statute. If you look at the supplied evidence package the FBSs are all constructed out of large wood telephone poles. OCPA then, Mr. David Fiscum told Charles ....you got to make them out of wood ....only for the support structure. These buildings were constructed by an BFAE -activity.... (Charles).... then Florida State Law-agricultural pole barns do not need permits to be constructed, then after 1998.... ss604.50. Some FBS have been in place for more than ++40 years. The subject property just did not have a AC attached to it (again just a property tax break, per above Item G) . This is a cold hard fact and no fogging can get around this elephant in the room. If Orange County Government wanted these FBS not to be there, then why did they allow them to be built continuously over the years, challenge this agricultural activity and not step in with the OCCEB sooner. Why wait until now?? Please also note, that KRE parked the above

Item (F) 18 wheeler tractor and three tractor trailers on this subject property since 2021. And for the AC - agricultural business - KRE leased the subject property in October 2022. Does not this Factor take account for KRE BFAE usage??? It is also strange to me why my KRE's BFAE status does not take into account here. KRE is applying through a agricultural lease for usage of the subject property. The property was used for agricultural use prior to this but never applied to received the AC. Please look at the elephant in the room, not the orchestrated fogging and mud on this issue.

Second Factor: Whether you use has been continuous.... when KRE gained access to the FBS in October 2022, KRE immediately filled the barns with KRE commercial hay and required (to keep dry) equipment. Commercial hay is a agricultural crop, whereas, grown, cut, and transported by KRE agricultural operations. To state that commercial hay is not a agricultural crop.... is an error. It is a BMP to store the commercial hay in a FBS. One must understand tha Charles previous agricultural activities on this site were conducted, but Charles never attempted to apply for a AC. The FDACS would recognized this site under the definitions of ss 823.14 - Farm .. \*\*\* "Farm means the land, buildings, support facilities, machinery and other appendices used in the production of farm..."\*\*\*. During the many years prior to KRE lease, Charles easily made over \$1,000 / year (FDACS requirement) in agricultural related income. There is nothing in the State Statutes or local OCPA that requires Charles to apply for an AC. AC is only a Florida Property Tax savings given to BFAE. It should be noted in our evidence package, we supplied the OCVABSM with the ss823.14 Right to Farm Act . Hopefully the OCVABSM took the time to read the definition of exactly what the FDOACS- of what a farm operation is. Please note, definition for "Farm operation means all conditions or activities by the owner, leasee, agent, independent contractor or supplier which occurs on a farm in connection with the production of farm....". Around 1982?? was the time when Charles started his farm(BFAE) ....so if you have a start and he has continued to now (but was shut down by OCCE - via nuisance ordinance early 2022). KRE then came on to the picture and applied for its AC in late 2022. KRE is the BFAE applying with a lease on the subject property. All AC's have to start somewhere. To make the statement that no past agricultural activity on this property was conducted ....IS IN ERROR. The FBSs was built under ss604.50. per above Item (F), this is discussed as a Lessons Learned. \*\*\*\*\*Now for the second elephant in the room\*\*\*\*\*. During my meeting with Mr. Jeff Miller, I asked him verbally face to face, was there anything else needed from KRE in support of this case (see above Item A). He stated no... it is in the system and let it work its way through the system. I was completely blindsided when the OCPA Lawyer had the audacity to ask KRE questions concerning KRE - BFAE status. We are all Professionals in that room and I didn't ask the OCPA Employees (oh!! wait a minute, they are presumed correct on anything OCPA say or do in this VAB hearing) their credentials or the OCVABSM pedigree. I went to that meeting assuming that my KRE credentials/ pedigree were in place. I even stated that if there's any issue concerning this "please stop this hearing. ..for a rehearing at another furture date and allow me to put in KRE's new evidence" that is required to secure my status as a BFAE or anything else you want for AC. The OCVABSM did not stop the hearing and I took that as I met the OCVABSM's standard. The Final OCVAB needs to look at this very seriously, as it is completely a fogging job. KRE has been around since 1909. My forefathers in the KRE lineage would turn over their grave, for what I believe was a pointed and well executed attack during this OCVABSM hearing on KRE's pedigree. KRE's empire includes over 800 acres of which KRE either owns or executive decisions on (via.. lease or other). If the OCPA needs any KRE pedigree information (should have asked for it at our face-to-face meeting (or simply just a phone call away) it would have been placed in our evidence package), whatsoever, KRE will fully give it as long as it does not violate KRE tradecraft guidelines. It should be noted, that the OCPA already has numerous past IRS schedule F's, business plans, KRE -agricultural guidelines, receipts for hay / feed, AC leases, Florida, equipment/supplies, the letters of reference, over 15 ACs just throughout Orange County the State of Florida Premise ID certificates(s) and a KRE Tangible Tax status currently on file, from past cases before the OCVAB. Please tell me .....what more do you



need?? I think this answers the question of whether or not the property in question or KRE - has been continuous.

Third Factor: Purchase price.... Charles has owned the subject property for a long time, since 1981. When Charles first bought the property, Charles was totally surrounded by agricultural activities. Unfortunately now, Charles is what is known as a Agricultural Enclave and there is nothing but planted houses around.

Fourth Factor: Size, as it relates to specific agriculture use.... again as stated in First Factor, we only asked for the specified++ two acres++ for the AC. Within this 2 acre AC parcel the FBS are located. \*\*\*The third elephant in the room\*\*\*, is a BFAE (KRE) allowed to have two acres for agricultural usage for FBS's. If you look at the KRE 's Quarantine Zone - Sable Palm complex, Christmas these properties are comprised of only one third acre. Each one of these one third acres have a AC individually and stand alone. The OCVABSM stated "insufficient testimony and evidence were provided to show the need for storage of hay and equipment and that the size of the subject property is adequate to fulfill that need. While some of the testimony conflicted it was clear that the hay and equipment that were to be stored on subject property were not it put to use on the subject property and could only be used elsewhere. The petitioners argument that the size of is adequate for storage, therefore, qualifies for an agriculture classification is not in keeping with the intent of the law". Sorry, just saying something does not make it true, but again OCPA can do this unless we show where they are wrong. Please ask any BFAE or let's think out of the box and go to your OCAAB WITH THESE QUESTIONS!!! ..Do you need a enclosed Barn for your hay and equipment and does that barn, only be used for the hay and equipment ONLY for that location???? Oh wait, we were denied being able to do that in front of the OCAAB. Why???? Any BFAE will kindly tell you..do you know anything about agriculture, about the BMPs, about the way things work in the agricultural world and finally the OCVABSM states "is not in keeping with the intent of the law". I have to ask you, what law is the OCVABSM referring to?? Going up against a OCVASM, using this logic is a recipe for disaster for ANY BFAE trying to get a AC in Orange County; no wonder agricultural activities are only planting houses now. I do not know how could even fathom why the OCVABSM can even assume this theory. Please show me where the any law states that you MUST USE the hay and equipment only on the site where it is located anywhere in a BMP's, State Laws, Federal Laws or common logic that affects agricultural activities. Finally, the OCVABSM states "under petitioners definition, the garage of any homestead residence may seek agricultural classification if it is large enough to house a tractor or some boxes of tomatoes". Sorry, more fogging /mud, the OCVABSM SHOULD KNOW that a homesteaded property is exempted by law (1 acre requirement for cartilage), then the property is split to receive a AC. I've seen the property appraiser in other counties, where the garage is separate from the house (this is an important requirement ...not connected) receive the AC as it is the attached to the AC property. But, I'm truly sorry, KRE was not selling tomatoes out of it, but KRE are storing hay and tractors/ supplies in it. KRE has this on a AC "garage property" they own, but fortunately this property is not located within Orange County.

Fifth Factor" Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices.... Again the OCVABSM did a skillful job for fogging.. he stated "the petitioner argued that the agricultural activity is the storage of hay and equipment on the subject property. However, the petitioner failed to explain what if any, accepted commercial agricultural practices apply to this activity, nor identify any effort that has been made to sufficiently adequately care for the subject property in accordance with those accepted commercial agricultural practices". Continuing, the OCVABSM stated "Simply storing some hay for a few months of the year is clearly not a primary use of such property". \*\*\*Now for the 4th elephant in the room\*\*\*,

again, please see ss823.14 Right to Farm Act for the definitions of a farm... the barns are the FBSs and the surrounding two acres are access / egress with barns & support facilities!!! In my opinion , the land was efficiently cared for with accepted agricultural practices by: clearing the land, upgrading the surrounding land, digging overflow canals (drainage), installing electricity and water, roads and accessory parking and building the barns & support facilities on the land. Is not the land changed/ upgraded when this happens??? It is my belief, the Florida State Statute(s) takes precedence here and the OCVABSM's FOGGING/ MUD definition is trumped.

Six Factor: Whether the land is under lease.... I am truly sorry that in the agricultural world, we do not put a lease in effect which is from / written by a Philadelphia Lawyer. A farm lease is what I consider a living lease. It is always changing, as you are adding more buildings, fence lines, driveways, egress and exit, culverts, livestock water ponds and the list goes on...and on. To have a agricultural lease that limits you on what you can do in the future (as long as it's not illegal) is typically not a agricultural lease. KRE has used this evidence supplied agricultural lease in most all the KRE's Leases throughout the Great State of Florida. This is the first time anyone has ever questioned the validity of what KRE lease encompasses. As you plainly can see there is a section (III. c) where either party can drop the agricultural lease within 30 days. Oh, one other Factor, because we were denied on our KRE lease, we have rewritten it and dated it for December 2023 (to clean up the handwritten notes on the lease). \*\*\*\*Now The fifth elephant in the room\*\*\*\*. OCVABSM states "while the use of storage buildings is handwritten on the lease, which includes multiple other uses including grazing, the petitioner acknowledged that grazing is not taking place on subject property, but may be a future use". Here is an excellent example of how it's a living lease. Charles asked the OCCE site survey representative this exact question (about number of livestock) and it was stated "not allowed". OCCE will not allow (limits no more than five) animals on this property. OCAAB might want to look at this exact issue, when it comes before the OCAAB and make a recommendation to Orange County Government about "nuisance" related impact that skirts ss823.14. This OCCE livestock ordinance without a AC, is a death sentence to any fledgling agricultural endeavor in Orange County. The storage buildings are the FBSs and the reason for the 2 acre AC (a BMP standard). The KRE lease was changed in midstream, as it was realized that farm animals were not allowed on the subject property. In the future, KRE will use this site (in the far rear) as a useful Quarantine Zone (a BMP standard). Future KRE plans called for another AC covering this area. But luckily, the OCCE cannot enforce their draconian ordinances upon it, once a AC is attached to it.

Seven Factor: Other factors that may become applicable..... OCVABSM stated "must be most significant activity on the land, storage of hay and equipment, even assuming arguendo that this would qualify as a legitimate bona fide activity, only occurs a few months of the year therefore... the storage of the hay and equipment .....is not the most significant activity on the land". Now, \*\*\*\*The sixth elephant in the room\*\*\*\*; I am quite impressed with this statement, it clearly makes no common sense in the agricultural world, as this is not the way it's supposed to be for AC. Remember now, if OCPA approved the AC on this subject property, the previous major activities stated on the land have been removed by the OCPA via Homestead on a separate parcel of property. ONLY what is left over can be considered classified under the AC. Making the mere statement that inside storage (hay and equipment) are not a agricultural usage for this land is in error. Please OCPA, OCCE, OCCEB or Final OCVAB enact the above Item K and ask the Florida Attorney General if this is a BMP and does some Florida State Law apply to this. I sure hope so, because there's a lot of Florida Agricultural Activities out there that are depending on this exact issue / theory. Now I will give you an example where this Factor / theory is flawed. Please review addresses for Quarantine Zones listed for KRE in Orange County. (844 Sable Palm [complex- five parcels] Christmas & 21667 Fort Christmas Road, Christmas) both of these two KRE properties had to go

before the OCVAB due to the fact that OCPA denied AC on them. The then OCVABSMs understood a Quarantine Zone is required /needed on livestock operations to meet FDACS & USDOA - BMPs. On these KRE properties, livestock are not there year-round. The BMP is to keep this property vacant until you need it with a sick animal. If unfortunately you had a sick animal on this property, you had to thoroughly clean it afterwards or face infecting future QZ livestock. It is unknown whether or not, when you buy a animal for your agricultural operation... is it sick. Hence you use these QZ properties to allow a time limit to go by and watch the animal for sickness. In some past years, KRE have used these QZ livestock areas for only a month, during the entire year span. This process on other KRE properties located within Orange County with ACs on them do not have the same standards as what you're placing on the subject property??? \*\*\* seventh elephant in the room\*\*\* another statement by the OCVABSM "of some hay", our submitted evidence (photos) show that three FBS bays of over 100++ round bales were stored in the FBS in 2022. Does the OCVABSM implicate... it's just a couple of bundles of square bails. Each of these round bail - rolls are over a thousand pounds each and very in size from 4 ft wide to 5 - 8 ft tall. This is not a small amount of hay \*\*\*\*\*this is a humongous amount of commercial livestock hay\*\*\*\*\*. Please go to the OCAAB and ask OCAAB are there any hay operations ...like KRE located in Orange County (possibly Robin's operation in East Orange County) ask the OCAAB whether this "of some hay" is a BMP. Next, I would like to go into what Mr Jeff Miller stated during the hearing. He stated when asked the question of agricultural equipment, whether or not, a bobcat (skidsteer machine) and high reach - bucket truck can be used on agricultural property. He stated in his opinion these are NOT agricultural equipment. Had Mr. Jeff Miller went into the FBSs, he would have seen/ photographed a lot of other agricultural equipment and supplies. Again, why didn't HE do a proper site survey and come in and "feet on the ground approach". Please, see above Item I.

Well folks, there are seven Factors and seven elephants in the room. The KRE AC - Agricultural Endeavor Room is really full of elephants (seven pachyderms and they are all quite big in size and no MUD on them) now and it's getting really hard to move in it. If PETA, Sierra Slub, Audubon Club or whoever Club or organization heard about all these elephants in one room, they would demand for them to be let out or give them at least 2 AC acres to roam around in, like we asked for. It's common knowledge that a pig/hog cannot even be put in a cage. This law is part of the Florida Constitution... believe it or not. I truly hope the above second section of this memorandum was entertaining for the reader, as it was for me to write it. Again, I do not want to step on anyone's feelings or toes in my above presentation, but the truth and above actions of this local governmental community has forced KRE .....to /must "be said in writing".

In conclusion, the about topics and discussions should be discussed within your organization . The OCPA & OCVABSM reported the reason we wanted this AC, was to stop OCCE issue . Please read ss823.14 subsection (6) Limitation Of Duplication Of Government Regulation .. a local government may not adopt any ordinance, regulation, rule, or policy to prohibit, regulate, or otherwise limit and activity on a bona fide farm operation on land classified as agricultural land pursuant to ss193.461. WOW .....STOP THE FOG...should I say anymore on /about this subject ?? The driving factor in this case hearing, is the future possibility of fines/liens of \$1000?? a day fine, can be placed upon Charles & KRE's BFAE operation. We intend to take this back again for the year 2023 for the OCPA's AC approval and this time around, you better bet, we are going to be ready for the FOG & MUD and our side will be wearing full rain suits.

We request that the OCCE and /or OCCEB state in writing, as soon as possible, they will "NOT pursue a lien during our legal administrative remedies and due process allowed time-frame". We have cleaned up the outside (already at great expense and hardship) to meet your standard , but the FBSs are still at issue and KRE hay must be stored inside. Also, someone in Orange County Government..... please "order the OCAAB to listen to our case", to get an opinion back, from the local Farmers/ Ranchers to Orange County Government. And lastly, we hope that the Final OCVAB will take this information under consideration, as we all know ; the Final OCVAB can table this issue until all the answers can be acquired, when they make their final judgment on 2022-0030.

Another issue that just happened to KRE on January 8th, 2024..10:05 PM... "someone" opened (\*\*SUS\*\* undid the chain clasp and removed the gate bumper bar... gate was forced open... outwards) the outside perimeter gate that allowed the KRE's cow herd to escape. Then "someone" drove the cows over two miles away ....down south Fort Christmas Road almost to Reindeer Road. This action was unprecedented for KRE, to bring the cow herd back, KRE had to hire additional Cowboys and transport back via cattle trailers (\$\$\$\$). During the process of the cows getting out, one pregnant heifer was hit just south of the illegally opened gate on Fort Christmas Road. Thankfully, the driver was not hurt, but the minivan took severe damage. The Orange County Sheriff's Agricultural Unit is investigating this illegal act.... against KRE. I want everyone to know that..."it's hard to be a Cattle Rancher".

I fully intend to take the above issues, to the Florida Cattlemen's Association and the Florida Farm Bureau for guidance. I will use this case / hearing in my presentations to the people up in Tallahassee, both public and private . That group up there will always bend an ear "trying to find out why all the new agricultural activity in the State of Florida is drying up". I want to make the following clear and precise, KRE currently is spending \$10,000 (2023 -????) a year on this lease for this property. In the year 2022 KRE only paid \$1,000 per year. KRE cannot fully execute all the plans it has for this leased BFAE. OCPA / OCVAB has stalemated all efforts to effectively use this BFAE property, \*\*\*For agricultural operations and usage\*\*\*. At KRE Orlando, main site -operations, many machines and supplies are being stored in the front of these properties under tarps. I used this FBS lease for a buffer on building future buildings on KRE property. A eminent domain case against KRE caused many hardships, due to the fact, equipment had to be moved and the buildings were given KRE, to take down . These buildings / materials are currently being stored at KRE Orlando - main site operations and our Lake County site. In hindsight, KRE should have hired someone (builders and welders), paid them (\$11,000++) to start building building's on KRE's BFAE properties, with our materials and save KRE from this forced hardship. Due to my severe injury (directly caused by OCCEB judgment of 2019 through 2021), I could not complete this task. Then in 2023, I had severe heat stroke and down for almost a year. All building materials, supplies and equipment should have went into the FBSs at the subject property; but why put them there, if all these FBSs are scheduled to be ripped down by the OCCE mandate (think long and hard about this issue folks!!!). At the subject property many of the current area agricultural operations have changed (forced) and are now planting houses instead of crops. I assure all of you, that this will be what will happen with this BFAE (Charles) if the AC is not granted. If this practice continues ....who will feed all the people ..... oh, wait you can get it at Publix.... Hopefully, we can learn by our mistakes and fix them ....either voluntarily or legislatively. If you have any questions on the above or concerns please do not hesitate to call 407-797-0769. I would love to debate the above issues in an open forum, if you allow me access to your organization, both private and public. Please, before you go any farther on this Final OCVAB hearing timeline, please allow us to go before the OCAAB and tell our peers what is happening and let them have a say in this matter.... enough written, thank you for reading this long-winded memorandum and I hope you enjoyed reading it. Hopefull, this will be the cornerstone for new State



Statutes generated by the State of Florida Legislature... I have been a part of this, seen this and been there before.....

THE END or is it!!!

Sincerely,

Robert W. Kupke (ASAC, LAC, SME)  
Kupkey Ranch Enterprises  
407-797-0769 cell  
19749 Lake Pickett Road Orlando, Florida 32820  
A Fresh From Florida Agricultural Business