



OFFICE OF THE COMMISSIONERS AND MANAGER

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News Release

County Withdraws Notice of Violation for Cross Creek Ranch

March 29, 2012, Monroe, NC – Union County has withdrawn the Notice of Violation issued to Jay Brown, owner of Cross Creek Ranch, on April 1, 2011. The County determined, based on a change in the law that occurred since the Notice of Violation was issued, that the rodeo activity being conducted at Cross Creek Ranch is no longer in violation of the Union County Land Use Ordinance.

Union County became involved with Cross Creek Ranch in January 2011 when it received a report that public events were being conducted at the property. Union County Land Use Administrator Lee Jenson, as well as other employees of Union County, including the Union County Fire Marshal's Office, visited the property. It was found that rodeo events were being held on the property in an enclosed metal building, approximately 30,000 square feet in size, with concession sales and seating for up to 2,000 spectators.

Based on his site visit and discussions with Brown, Jenson concluded that the rodeo operation was subject to the Union County Land Use Ordinance. Consistent with Union County's long-established practice of issuing permits for similar non-farm events on farm property, Brown was informed in writing that his rodeos would require a Special Use Permit under the Land Use Ordinance.

For years, residents have obtained permits from the County to hold "events" on farm property. Since 1985, the Union County Board of Adjustment has issued permits authorizing special events to take place on farm property on 10 separate occasions. One of these events is the prominent steeplechase sponsored by the Charlotte Steeplechase Association, Inc., attended by thousands of people.

Brown held another rodeo event on March 20, 2011, without obtaining a permit. Consequently, a Notice of Violation was issued on April 1, 2011. On June 27, 2011, after the Notice of Violation was issued, the North Carolina Legislature enacted Session Law 2011-363. This new law amended the law that gives zoning powers to counties and expanded the exemption that bona-fide farms enjoy from county zoning powers. The statute provides a "safe harbor" from county zoning by listing five methods that a property owner can use to establish that his property is a bona-fide farm, and the bona-fide farm use is therefore not subject to county regulation. One of the methods is for the property owner to provide a copy of his Schedule F ("Profit or Loss from Farming" form) from his most recent Federal Income Tax Return.

County Attorney Ligon Bundy informed Brown of the new law and requested that Brown's attorney furnish a copy of his Schedule F from his 2010 tax return in order to determine whether

his rodeo operation was exempt from County zoning under Session Law 2011-363. The Schedule F Bundy received from Brown's attorney made no mention of his rodeo operation. The Schedule F described Brown's farm activity as raising cows, horses and hay. The Schedule F was requested again in order to establish whether Brown was reporting income and expenses related to his rodeo operation on Schedule F. Brown refused to do so, and on November 3, 2011, he filed a lawsuit against the County.

On November 21, 2011, Bundy again requested information that would allow Jenson to determine whether the income and expenses related to the rodeo activities were being reported on Brown's Schedule F. Jenson requested this information because he believed in order for Session Law 2011-363 to apply there must be a connection between the rodeo activities and the financial information reported on the Schedule F. Brown again refused to furnish the requested information.

Afterwards, Bundy filed a written discovery request seeking disclosure of the documentary information that had previously been requested. An objection to the discovery request was filed by Brown's attorney, and the County then filed a motion asking the Superior Court to order Brown to produce the requested information.

On February 20, 2012, a hearing was held in Union County Superior Court where Brown's attorneys resisted the production of the requested information. Despite the opposition of Brown's attorneys, the Superior Court Judge agreed with the County's position and ordered Brown to furnish the requested documentation. On March 19, 2012, Bundy finally received the documentation from Brown's attorney that had been sought for several months.

Based on that information, Jenson has determined that there is a connection between Brown's rodeo activities and the farming income and expenses that he has been reporting on the Schedule F of his Federal Income Tax Return. It now appears, based upon this newly furnished information, that Brown's rodeo activities are related to the farming activities of raising horses and cows on his property, and are therefore exempt from regulation under the Land Use Ordinance.

Brown's failure to provide the documentary information requested in Bundy's letters of October 28, 2011 and November 21, 2011, hindered the resolution of the issue at an early stage and needlessly cost Brown and the County several thousands of dollars in legal fees.