

**BEFORE THE VILLAGE BOARD OF THE VILLAGE OF ROUND LAKE PARK
SITTING AS A POLLUTION CONTROL FACILITY SITING AUTHORITY**

**IN RE: APPLICATION FOR LOCAL SITING)
APPROVAL FOR GROOT INDUSTRIES) 03-01
LAKE TRANSFER STATION)**

**PRACTICAL CONSIDERATIONS REGARDING
CRITERION VI TRAFFIC PATTERNS**

The Village of Round Lake Park (the Village) hereby files this document pursuant to the scheduling order entered on or about October 7, 2013. The best view and of Fox Moraine, LLC v. The United City of Yorkville, 968 N.E. 2nd 81 (2nd Dist, 2011) is the Appellate Court's criticism of the PCB's decision kept the traditional application of Criterion VI as it has been applied for the past three or so decades in place as good law.

BACKGROUND:

The Village wishes to emphasize practical considerations requiring analysis in determining compliance with Criterion VI. Criterion VI states:

the traffic patterns to or from the facility are so designed
as to minimize the impact on existing traffic flows.

The analysis typically conducted for the last thirty or so years that SB 172 has been law considers traffic in the area of the facility entrance and a sufficient distance removed therefrom to allow the review of traffic conditions and potential impacts on traffic conditions as facility related traffic moves to and from the facility. The analysis is conducted over a distance far enough removed for the facility entrance/exit to a point that the aforesaid traffic can be said to leave or enter the roadway system. While traffic engineers could differ on just when it can reasonably be said that traffic leaves or enters the roadway system, that is not the issue here.

Here the Applicant noted that the facility will utilize the Winnebago Landfill. While there is nothing to suggest that the Applicant could not or does not intend to use other disposal facilities, Timber Creek Homes (TCH) claims that the Applicant must disclose the entire route to the Winnebago Landfill and other disposal facilities it intends to utilize. Apparently it is TCH's position that such routes must be developed and set forth in the application complete with the type of analysis impact minimization historically applied to the area more proximate to the facility entrance/exit.

Brian Coulter, a traffic engineer testifying on behalf of TCH testified that it is the Applicant's duty to set out the route to the disposal facility even if multiple disposal facilities are intended at the time the Application is filed. (E.g. 9-26-13, 12 p.m. Tr. 63 L17, 64 L20, 65 L11, 66 L20, 67 L8)

Apparently realizing that the task he outlined can become daunting, Mr. Coulter placed an arbitrary cap on the number of disposal facilities, the corresponding routes to which need be identified and analyzed. (E.g. 9-26-13, 12 p.m. Tr. 68 L3 & 15, 69 L6)

ARGUMENT:

Authority:

Fundamentally, Timber Creek's position requires one Illinois municipality to analyze and determine whether to approve traffic routes specifically in excess of 60 miles to a landfill. On cross examination by Mr. Mueller, Mr. Coulter noted one potential route which he identified had what Mr. Coulter characterized as a problem, as it directed transfer trailers through the downtown area of at least one municipality, even though the roadway through the downtown is adequate to handle such traffic. (9-26-13, 12 p.m. Tr. 54 L18 to 55 L 3)

Whether and to what extent this is a problem may be somewhat subjective. The question, however, is what authority one Illinois municipality has to direct and/or approve any type of traffic through any Illinois township, municipality or county other than the siting unit of government itself? What authority does one Illinois unit of government have to direct and/or approve any type of traffic through any any township, municipality or county in another state should a disposal facility in another state be utilized?

One wonders what authority one unit of Illinois government has to do what Timber Creek claims to be necessary. Certainly any Illinois municipality would be reluctant to turn the concept of intergovernmental cooperation on its ear and do what Timber Creek claims to be necessary.

Which Facility Traffic:

As pointed out, Timber Creek raises its issue regarding traffic, transfer trailers, traversing the roadway system to one landfill. However, transfer stations can use multiple disposal facilities including landfills in different states. The analysis becomes significantly complex to make most, if not all, transfer station and disposal facility sitings nearly impossible to conduct.

Significantly, Criterion VI deals with Traffic both to and from the facility. Accordingly, why would not the requirements for all incoming vehicles be the same? Why would any the analysis regarding outgoing vehicles be limited to only transfer trailers? There is no language in Criterion VI that could reasonably be relied on to limit its application to only portion of the facility traffic.

What if Routes Change:

Not only can transfer stations utilize multiple disposal facilities and change the identity of those disposal facilities over time as market conditions change and as disposal facilities close and new disposal facilities are developed. Certainly attracting more waste from new areas would be in any transfer or disposal facilities business plan. What happens to the validity of a facility's siting should any of its related traffic change? It doesn't make any sense to place the validity of a siting at risk and potentially require a transfer station to undergo siting yet again because it needs to utilize a different disposal facility. It doesn't make any

sense to potentially require a transfer station or a disposal facility to undergo siting yet again because it is attracting waste from other areas requiring the use of different transportation routes.

CONCLUSION:

In short, Timber Creek's proposed construction of Criterion VI would make the siting process unduly complex and potentially unworkable. It would require units of local government siting a facility to exercise extraterritorial jurisdiction and approve routes through other municipalities, townships and counties both in Illinois and potentially other states. The authority to do so simply does not exist.

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NOTICE OF FILING

To: see service list

PLEASE TAKE NOTICE that on October 7, 2013, I filed the attached document with the Clerk of the Village of Round Lake Park by email, copies of which are hereby served upon you.

By: Glenn C. Sechen
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Certificate of Service

The undersigned hereby attorney certifies that on the 7th day of October, 2013 a copy of the above was filed and served by email upon the persons shown in the Service List:

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