No. _____

IN THE SUPREME COURT OF ILLINOIS

HENSON DISPOSAL, LLC, Petitioner-Appellant, v. ILLINOIS POLLUTION CONTROL BOARD, AMERICAN DISPOSAL SERVICES, INC. d/b/a REPUBLIC SERVICES OF BLOOMINGTON, McLEAN COUNTY, ILLINOIS, and McLEAN COUNTY BOARD Respondents-Appellees.	)	On Petition for Leave to Appeal from the Illinois Appellate Court, Fourth Judicial District, Case No. 4-24-1422 There on Appeal from Final Order of the Illinois Pollution Control Board (PCB 24-65) (Third-Party Pollution Control Facility Siting Appeal)

HENSON DISPOSAL, LLC'S PETITION FOR LEAVE TO APPEAL

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ORAL ARGUMENT REQUESTED

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CYNTHIA A. GRANT
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PRAYER FOR LEAVE TO APPEAL

Pursuant to Illinois Supreme Court Rule 315, Henson Disposal, LLC[1] ("Henson") respectfully petitions for leave to appeal the judgment of the Illinois Appellate Court for the Fourth District in *Lakeshore Recycling Systems, LLC v. Pollution Control Board, et al.*, 2015 IL App (4th) 241422-U (A1-A13).[2]

This case concerns a technical but critical aspect of developing new pollution control facilities in the State of Illinois. These facilities are essential for safely managing solid waste generated by individuals and businesses across the state. Companies seeking to develop new facilities, or expand existing ones, are required to navigate a complex set of statutory requirements, including strict provisions on notice to certain surrounding owners. Here, Henson dutifully complied with all applicable statutory requirements, specifically tailoring its notification efforts to closely track the statutory language. After the requisite notices were served and application filed, a competitor challenged the notice provided, arguing to the Illinois Pollution Control Board ("IPCB") that a larger 30+ acre tax parcel, rather than the 3.09-acre area actually requested for siting, should be used as the site boundary for purposes of notice. In interpreting the statute, the IPCB deviated from the plain language of the notice provision, reading new requirements into and changing the meaning of the statute. Deferring to the IPCB's erroneous interpretation, the Fourth District affirmed.

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[1] Petitioner-Appellant Henson Disposal, LLC was substituted for the original applicant/petitioner, Lakeshore Recycling Systems, LLC ("LRS"), following a transaction completed in March 2025 while the appellate proceedings were pending.

[2] The record on appeal contains three (3) common law volumes cited as "C__", a Report of Proceedings cited as "R__" and Exhibits cited as "E__. Citations to this Petition's appendix are cited "A__."

If the Fourth District's decision deferring to the IPCB's erroneous and unreasonable interpretation of 415 ILCS 5/39.2 is allowed to stand, it will fundamentally change the meaning and application of the statute, creating new and unnecessary obstacles for applicants and local authorities to navigate and needlessly delay or even prevent the development of new pollution control facilities.

In interpreting the notice requirements of Section 39.2, the IPCB strayed from the plain language and intent of the statute, reading new, unnecessary and unexpected requirements and conditions into the Act and changing the meaning of terms previously thought to be well-understood. Because compliance with statutory notice is jurisdictional and strictly construed, it is vitally important for both applicants and local authorities that the statutory requirements are clear; however, the IPCB's interpretation of the statute (and Fourth District's deferral to the same) does just the opposite. The IPCB's reading of the statute does not provide clarity or better protect local communities but creates greater confusion, setting the stage for further dispute, delaying the development of new, well needed facilities, impeding competition, and disturbing the reasonable expectations of applicants and local authorities.

The IPCB's statutory interpretation is not entitled to deference because the statutory language at issue is clear and unambiguous. But even if there is some ambiguity, the IPCB is still not entitled to deference because its statutory interpretation is erroneous, unreasonable, inconsistent with the language and purpose of the statute, renders key terms superfluous and reads additional requirements into the statute.

This Court's supervisory authority is necessary to correct the IPCB's flawed interpretation, protect and preserve legislative intent, and provide an authoritative

interpretation of the statute consistent with its purpose. This Court should accept review and reverse the Fourth District's decision deferring to the IPCB's statutory interpretation, correct the IPCB's erroneous and unreasonable interpretation of 415 ILCS 5/39.2, and reinstate, or remand with instructions to reinstate, the McLean County Board's original siting decision.

JUDGMENT BELOW

The Fourth District entered its judgment on October 21, 2025 (A1-A13). The Fourth District affirmed the October 3, 2024 order of the Illinois Pollution Control Board vacating the McLean County Board's approval of Henson's request for local siting for a new pollution control facility. No petition for rehearing was filed in the Fourth District. Henson timely filed this petition within 35 days after entry of the Fourth District's decision pursuant to Illinois Supreme Court Rule 315(b).

POINTS RELIED UPON IN SEEKING REVIEW

This Court should accept review and reverse the appellate court's decision to defer to the IPCB's interpretation of 415 ILCS 5/39.2 for the following reasons.

First, review by this Court is necessary to correct the IPCB's erroneous interpretation of Section 39.2 and provide an authoritative interpretation of the statute that will clearly define the responsibilities and requirements of applicants and local authorities in providing notice and exercising jurisdiction under the statute. Specifically, this Court should confirm that applicants are not required to use authentic tax records for purposes of defining the lot lines of the subject property, the statute does not require that a subject property correspond with a tax parcel, and does not prohibit applicants from defining the location of the subject property.

Second, the Fourth District should not have deferred to the IPCB's statutory interpretation because the statutory language is clear and unambiguous—Section 39.2 does not prohibit applicants from defining the boundaries of the subject property or require applicants to use the authentic tax records to identify the lot lines of the subject property for purposes of providing notice.

Third, regardless of ambiguity, the IPCB's interpretation of Section 39.2 should not have been afforded weight because it is erroneous, unreasonable, inconsistent with the purpose and intent of the statute, and impermissibly reads new conditions and requirements into the statute.

STATEMENT OF FACTS

A. Local Siting Application & Approval

Henson is an Illinois-based waste management, disposal, and recycling company that seeks to site a new solid waste transfer facility in McLean County, Illinois. To develop a new pollution control facility in Illinois, an applicant must satisfy numerous pre-requisites, including local siting review and approval. The requirements for local siting review are detailed in 415 ILCS 5/39.2. To comply with the statute, an applicant must submit detailed information describing the proposed facility, its location, size and operations, demonstrate compliance with various siting criteria, provide written notice to nearby property owners, and meet other statutory requirements. 415 ILCS 5/39.2.

Henson's predecessor, LRS, filed an application for local siting review with McLean County on August 18, 2023. C1883-C1890 V2. The property for which siting was sought was a 3.09-acre site located in an industrial area just south of the City of Bloomington, Illinois. C1898, C2741 V2. The site boundaries were defined by field

survey, legal description, and on an Assessment Plat and Preliminary Plan of Subdivision. R135, R139-R141, E60-E66, E79-E90.

Before filing its application, LRS timely served written notice on owners of all property within 250 feet of the 3.09-acre subject property, as measured from the property's surveyed lot lines. C2740-C2747 V2. LRS used the McLean County tax records to identify the owners of surrounding properties and served the notices by registered mail, return receipt requested. E64-E65, C2740-C2761 V2. Notice was also published in the local newspaper and served on local legislators. C2762-C2766 V2. The application for siting approval and written notices identified the subject property as the 3.09-acre site and described the location using legal and metes and bounds descriptions. C1892 V2, C2741-C2743 V2.

B. Public Hearing & Decision of the McLean County Board

Public hearing on the siting application was held on November 29-30, 2023. C2775-C2776, C2853-C2855, C2899 V2. Both the hearing officer and County Board's Pollution Control Site Hearing Committee recommended approval of the siting request. C2981-C2999, C3679 V2. The County Board formally approved the siting request on February 15, 2024. C20-C23 V1, C3680-C3689 V2. In its Findings of Fact and Conditions of Approval, the County Board found that the "legal description of the Facility as set forth in the Application (and recognized in the preliminary plan approved by the County) controls" and LRS had fulfilled all statutory pre-filing notice requirements. C20-C21 V1.

C. Republic's Appeal and Illinois Pollution Control Board Hearing

Respondent-Appellee Republic Services, Inc. ("Republic"), a competing waste management and disposal company appealed the County's approval to the IPCB. C14-C19, C2790 V2. A hearing was conducted on July 29, 2024. R6. During the hearing, several witnesses provided testimony on McLean County's recording and taxation systems and records. Markus Bounds, McLean County program administrator for the recording office, testified that property owners may choose to divide their property into smaller lots or parcels (R49-R50 (47:24-48:4)) and that multiple lots can be included in a single tax parcel with the same parcel identification number ("PIN"). R51-R52 (49:15-50:3), R55-R56 (53:20-54:24). Mr. Bounds noted that PINs are identifiers used by the County to track various parcels within its internal system; however, they do not define what constitutes a lot. R52-R53 (50:24-51:13). Mr. Bounds confirmed that the best way to determine the actual boundaries of a lot would be to perform a survey. R53 (51:6-13).

Joshua Schuster, GIS Specialist for the McLean County Supervisor of Assessments, offered testimony on the tracking, mapping and change of parcels. R82 (80:10-18). Mr. Schuster testified that a parcel control change request pertaining to the 3.09-acre property was received on August 17, 2023 and a separate PIN for the property (21-15-151-022) was assigned the same day. R83-R84 (81:5-82:22), E3. Mr. Schuster mapped the boundaries of the new parcel in the GIS system and calculated the 3.09 acre area using the property's legal description, the same legal description used to identify the property in the siting application and notices. R111-R112 (109:1-110:18).

Licensed land surveyor David Brown testified as to his work in surveying the boundaries of the 3.09-acre site. R133-R135 (131:2-133:23), R137-R139 (135:18-136:2,

137:7-10). Mr. Brown testified that in delineating the property boundaries he conducted a field survey, documented the lot lines of the property on an assessment plat and preliminary subdivision plan, and created a separate legal description for the property. *Id*.

D. Decision of the Illinois Pollution Control Board

The IPCB issued its written opinion and order vacating the County's siting approval on October 3, 2024. C3879-C3894 V3. The IPCB concluded that the County Board lacked jurisdiction to review the siting application because pre-application notice had not been provided to all required property owners. C3892-C3893 V3. Based on its interpretation of the statute, the IPCB held that the "subject property" could not be defined by the applicant but must be determined using the County's "authentic tax records." The IPCB further held that "a parcel must exist in the authentic tax records at the time the required notice under Section 39.2(b) is due." C3890, C3892 V3 (interpreting Section 39.2(b) "as requiring applicants to look to the authentic tax records when determining [the] 250-foot radius from the lot line of the subject property, as well as the names of the owners within that radius").

Because the 3.09 acre site was not identified as a separate parcel in the tax records at the time notice was provided, the IPCB found that the site boundaries could not be used for purposes of providing notice. C3890-C3892 V3. Instead, the IPCB declared that a larger, 30+ acre tax parcel was the "subject property." *Id*. Because the larger tax parcel was less than 250 feet from a property that had not received notice, the IPCB found that the County Board lacked jurisdiction to approve the siting application. *Id*.

E. Appellate Proceedings

Henson timely appealed the IPCB's decision, challenging the its statutory interpretation. On October 21, 2025, the Fourth District affirmed. The appellate court held that the statutory language on notice was ambiguous and deferred to the IPCB's interpretation of the statutory language. Henson now timely files this Petition for Leave to Appeal.

ARGUMENT

A. Review by this Court is Necessary to Correct the IPCB's Erroneous Interpretation of Section 39.2 and Provide an Authoritative Interpretation of the Statute That Will Clearly Define the Responsibilities and Requirements of Applicants and Local Authorities in Providing Notice and Exercising Jurisdiction Under the Statute

The siting and operation of pollution control facilities in Illinois is highly regulated and controlled. Before an applicant can even request a development permit, it must first obtain siting approval from the locality where the facility will be located in accordance with 415 ILCS 5/39.2. Section 39.2 requires applicants to submit detailed information on the proposed facility, its location, size and operations, provide written notice to nearby owners, and meet other statutory criteria. 415 ILCS 5/39.2. With respect to notice, the relevant language instructs applicants to serve written notice "on the owners of all property within 250 feet in each direction of the lot line of the subject property, said owners being such persons or entities which appear from the authentic tax records of the County in which such facility is to be located." 415 ILCS 5/39.2(b).

In serving notice, LRS (Henson) followed both the letter and spirit of the law; however, the IPCB's recent interpretation seeks to change the rules. In holding that applicants must "look to the authentic tax records when determining [the] 250-foot radius

from the lot line of the subject property, as well as the names of the owners within that radius" and finding that "a parcel must exist in the authentic tax records at the time the required notice under Section 39.2(b) is due," the IPCB reads new conditions and requirements into the plain language of the statute. C3890, C3892 V3. The IPCB's interpretation is also not supported by and inconsistent with the context, purpose, and intent of the statute as a whole.

Compliance with statutory notice is jurisdictional and strictly construed, so it is vitally important, both for applicants and local authorities, that statutory requirements are clear. The IPCB's interpretation of the statute (and Fourth District's deferral to the same) does just the opposite, creating greater confusion and setting the stage for further litigation and dispute without any accompanying benefit to local communities. Section 39.2 does not specifically require that the subject property exist as a parcel in the County's authentic tax records or otherwise require applicants to use the County's authentic tax records to define the subject property—the statute's reference to tax records is addressed to the identification of surrounding, third-party owners and the term "parcel" is wholly absent from the statute. The IPCB impermissibly reads those "requirements" into the statute.

The IPCB's interpretation is not only erroneous and unreasonable, but in ignoring the language and intent of the statute, the IPCB (and Fourth District) creates greater confusion and uncertainty for applicants and local authorities alike. An authoritative interpretation by this Court is necessary to correct the error and provide definitive guidance to applicants and local authorities moving forward.

B. The IPCB's Interpretation of Section 39.2 Should Not Have Been Afforded Weight Because the Statutory Language is Unambiguous and the IPCB's Interpretation Was Unreasonable and Erroneous

The IPCB's statutory interpretation is not entitled to deference because the statutory language at issue here is clear and unambiguous. *Baillie v. Raoul*, 2019 IL App (4th) 180655, ¶ 46 ("If the language of a statute is clear and unambiguous, it must be applied without resort to other aids of construction—including agency interpretations. No amount of agency expertise can alter the meaning of an unambiguous statute."). This Court need only apply 415 ILCS 5/39.2(b)'s plain language to see that the IPCB's decision (and Fourth District's deference thereto) was faulty. Section 39.2(b), on its face, does not require applicants for local siting review to use the county's authentic tax records to identify or determine the location of the subject property, nor does it require that the subject property be recorded in the tax records as a separate parcel.

Even if there is some ambiguity in the statute, the IPCB is still not entitled to deference because its interpretation is erroneous, unreasonable, inconsistent with the language and purpose of the statute, renders key terms superfluous, and reads additional requirements into the statute. *See Hadley v. Ill. Dep't of Corrections*, 224 Ill.2d 365, 371 (2007) ("Courts, however, are not bound by an agency's interpretation that conflicts with the statute, is unreasonable, or is otherwise erroneous."); *Boaden v. Dep't of Law Enforcement*, 171 Ill.2d 230, 239 (1996) ("deference to administrative expertise will not serve to license a governmental agency to expand the operation of a statute"); *M.A.K. v. Rush-Presbyterian-St. Luke's Med. Ctr.*, 198 Ill.2d 249, 257 (2001) (observing that statutes should be construed "as a whole" and "in a manner such that no term is rendered meaningless or superfluous").

1. The Plain, Unambiguous Language of the Statute Directs Applicants to Use Authentic Tax Records to Identify Surrounding Owners

Section 39.2(b) expressly states that applicants shall serve written notice **"on the owners of all property within 250 feet in each direction of the lot line of the subject property, said owners being such persons or entities which appear from the authentic tax records of the County in which such facility is to be located."** 415 ILCS 5/39.2(b) (emphasis added). The statutory language is not ambiguous. Read naturally, it is clear that authentic tax records are to be used to identify the owners of nearby properties (those within 250 feet of the subject property), not to identify the location of the subject property. *Id*. The "said owners" are the owners described in the immediately preceding clause—i.e., "the owners of all property within 250 feet…of the subject property." *Id*. It is the identities of these *owners*, not the subject property, that are to be determined using authentic tax records. *See, e.g., Wabash & Lawrence Cnty Taxpayers & Water Drinkers Ass'n v. Pollution Control Bd*., 198 Ill.App.3d 388, 390 (1990) ("Under section 39.2(b)…'[o]wners' are defined as those persons or entities appearing from the authentic tax records of the county in which such facility is to be located."); *Bishop v. Pollution Control Bd*., 235 Ill.App.3d 925, 926 (1992) ("The statute requires that applicants for location approval use the 'authentic tax records' to determine the owners to whom notice shall be sent."). This construction best honors the grammatical structure of the statutory language. *Pielet v. Pielet*, 2012 IL 112064, ¶¶ 37-39 (citing, with approval, federal authority that looked to "normal grammatical construction" to interpret meaning); *see also In re E.B*., 231 Ill.2d 459, 467 (2008) (noting that "relative or qualifying words, phrases or clauses are applied to the words or

phrases immediately preceding them and are not construed as extending to or including other words, phrases or clauses more remote").

The IPCB's interpretation of the statute would require applicants to use the county's tax authentic tax records to identify both the owners of nearby properties and the boundaries of the subject property. There is no such requirement in the statute. The statutory language does not specifically instruct applicants to use or reference the county's authentic tax records to identify the subject property. The IPCB impermissibly reads this "requirement" into the statute. *People v. Wells*, 2023 IL 127169, ¶ 31 ("In interpreting a statute, we may not add words or fill in perceived omissions."); *see also Ill. Env't Prot. Agency v. Ill. Pollution Control Bd*., 2018 IL App (4th) 170144, ¶ 33 (rejecting agency construction that would change the clear intent of the legislature by adding new provisions or language not included in the statute).

The legislature's choice of language can be explained by the differing sources of information available to an applicant. Property ownership is subject to frequent change and can be contradictory and difficult to determine. The purpose of requiring applicants to look to and use the authentic tax records in identifying nearby owners is to provide the applicant an authoritative source for third party ownership information. *See, e.g. DiMaggio v. Solid Waste Agency of N. Cook Cnty*., PCB 89-138, 1990 WL 14402, at *6 (Jan. 11, 1990) (noting that the Act defines owners as "persons or entities which appear from the authentic tax records of the county" and that "the legislature requires that notice be given according to these particular records"). In directing applicants to identify property owners using the county's authentic tax records, the statute supplies a definitive, publicly accessible source of information that provides applicants certainty.

Applicants do not require similar assistance in defining the lot lines of their own properties. Applicants have ready access to properties they own and can easily conduct legal surveys or other work to precisely determine the boundaries and locations of the property proposed for siting without the use of tax records. Neither the applicant, nor members of the public need to reference the authentic tax records to determine the location of the property proposed for siting—the applicant is required to describe that location in its written notices and application. 415 ILCS 39.2(b) (written notice must state "the location of the proposed site, the nature and size of the development").

By deviating from the plain language of and reading new requirements into the statute, the IPCB also raises new questions and creates new issues. For example, what is considered an authentic tax record? When does a property become part of the authentic tax records? Does a property become a "parcel" in the tax records when subdivided, when recorded, when a parcel change request is submitted, when a PIN is assigned to the parcel, when the parcel change is mapped, when the parcel change is entered into the County's electronic filing system, when taxes are assessed, when a tax bill is issued? In the event of conflict, which county office holds the definitive records? These questions remain unanswered but are sure to be litigated if the IPCB's erroneous statutory interpretation is allowed to stand.

2. The Statute Does Not Require Applicants to Use Authentic Tax Records to Identify the Lot Lines of the Subject Property

For purposes of identifying property owners entitled to notice, Section 39.2(b) instructs that the 250 foot distance is to be measured from the "lot line" of the "subject property." Under the IPCB's statutory interpretation, applicants "cannot themselves 'define' or decide what the subject property is" but must reference and use parcel

information identified in the county's authentic tax records. C3890 V3. Further, the parcel must exist in the tax records as of the date notice is due to be served (*i.e.*, 14 days before the application is filed). *Id*. The IPCB's interpretation is a drastic departure from the actual language of the statute, ignores surrounding context, and deviates from legislative intent and therefore was not entitled to deference.

Section 39.2(b) does not specifically require (or even suggest) that the subject property be identified as a separate, taxable parcel or otherwise "exist in the authentic tax records at the time the required notice under Section 39.2(b) is due."[3] C3892 V3. Rather, the statute directs applicants to provide notice to property owners within 250 feet of the "lot line of the subject property." 415 ILCS 5/39.2(b). The language used by the legislature was "lot lines" not "parcel lines" or "tax parcels." In fact, the term "parcel" does not appear in Section 39.2 and the terms "lot" and "tax parcel" are not synonymous. A tax parcel can consist of multiple different lots which are defined separately from the parcel itself. R051-R052 at 49:15-50:2. Although lots owned by the same owner may be individually depicted and described, they collectively may be assigned a single PINs for tax purposes. *Id*. The best way to determine the boundaries of an individual lot is to perform a property survey. R053 at 51:6-13.

Had the legislature intended to require applicants to use parcel lines or tax records for purposes of defining the subject property, it certainly could have done so; however, it did not. When a term is not defined, courts are to assume that "the legislature intended

[3] The statutory notice deadline is the deadline for serving property owners, it is not a deadline for recording the location of the subject property in the tax records (and no such deadline in fact exists). Although not required, Henson did record the location of the 3.09-acre property with the McLean County Recorder of Deeds prior to filing its application. E60-E64.

the term to have its ordinary and popularly understood meaning." *Landis v. Marc Realty, L.L.C.*, 235 Ill.2d 1, 8 (2009). "Lot" merely means "a portion of land" with measured or fixed boundaries. *See* Webster's Ninth New Collegiate Dictionary 706 (1984); *see also* McLean County, Illinois Code § 317-7 ("A quantity of land described with such specificity that its location and boundaries may be established…"). The legislature's choice of language must be given due consideration and effect—neither agencies nor courts are at liberty to read unwritten requirements, exceptions, limitations or conditions into the plain language of a statute. *Will Cnty. v. Vill. of Rockdale*, 2018 IL App (3d) 160463, ¶ 42; *Cnty. of Kankakee v. Illinois Pollution Control Bd.,* 396 Ill. App. 3d 1000, 1013 (2009), *as corrected* (Jan. 26, 2010); *Petersen v. Wallach*, 198 Ill. 2d 439, 446 (2002).

The IPCB's interpretation of the term "subject property" is likewise inconsistent with the language, purpose and structure of the statute. Use of the term must be considered in light of the statute's purpose—to prescribe the process for requesting and reviewing requests for local siting approval. Given this context, the subject property must be the location that is proposed for siting approval—the property that is the *subject* of the request for siting approval. *See City of Des Plaines v. SWANCC*, PCB 92-127, 1993 WL 196207, *7 (May 20, 1993) (finding that distance was to be measured based on the area proposed and permitted for use as a waste transfer facility). To interpret the language otherwise would render the word "subject" meaningless. *See Hernandez v. Lifeline Ambulance, LLC*, 2020 IL 124610, ¶16 ("The words and phrases of a statute should be interpreted in relation to each other and the entire act, and no word or provision should be rendered meaningless."); *Valfer v. Evanston Northwestern Healthcare*, 2015 IL

App (1st) 142284, ¶¶ 21-23 ("As a general rule, courts should avoid interpretations that treat language as surplusage and should instead attempt to give meaning to all of the words used.").

Yet in interpreting the statute as requiring the "subject property" be defined according to recorded tax parcels, the IPCB has done just that. The IPCB's interpretation ignores the actual area requested for siting and denies applicants the ability to define or limit the areas for which siting approval is sought. *See* C3890 V3 (A014) ("The Board finds that an applicant cannot themselves 'define' or decide what the subject property is"). Such an interpretation is wholly out of step with the statute's plain language and overriding purpose. In fact, taken to its logical conclusion, the IPCB's interpretation would significantly increase the areas subject to siting review and create confusion and uncertainty as to the approved locations where pollution control facilities may be sited. Conversely, recognizing that the subject property is the area for which siting approval is sought prevents any such dispute and is in keeping with the both the notice requirement and overall purpose of the statute. Nothing in the statute prohibits or restricts an applicant from defining the subject property for which siting approval is requested, and in fact, applicants must define that location so that review can occur.

To the extent the applicant's identification of a site could result in fewer notifications to surrounding property owners, because there are fewer property owners within 250 feet of the subject property, that is an issue to be addressed and resolved by the legislature. And in any event, the IPCB's interpretation does not solve this illusory

concern,[4] but merely sets up an additional hoop for applicants to jump through (*e.g.*, subdividing the parcel, submitting a parcel change request, etc.)—one that is neither necessary, nor required by the statute.

Interpreting Section 39.2(b) to require applicants to match the boundaries of the proposed subject property to a tax parcel in the county's records would also not improve public notice or encourage greater transparency, but would only create confusion and encourage delay. Applicants are already required to describe, in both their application and the notices served, the specific location and boundaries of the area for which siting is sought. 415 ILCS 5/39.2(a)-(b). Recordation of the subject property in the authentic tax records would not improve public notice or provide greater certainty, nor is it required by the statute.

In holding that the subject property must exist in the authentic tax records as a separate parcel at the time notice is served, the IPCB impermissibly strayed from the plain, unambiguous language of the statute. Its interpretation was erroneous and unreasonable, and therefore should have been accorded no weight or deference. Review should be granted to provide a correct, definitive interpretation of the statute.

APPENDIX

A copy of the October 21, 2025 Appellate Order (A1-A13) is attached as an appendix.

[4] The statute recognizes that owners of properties located in close proximity to a pollution control facility (i.e., within 250 feet) may require more individualized notice; however, planning the location of a facility so that it is not in close proximity to neighboring owners mitigates the concern. Public notice is still required regardless of whether the facility is located more than 250 feet from a third-party property owner. *See* 415 ILCS 5/39.2(b)-(d) (requiring notice to local legislators, publication in local paper, and public hearing).

CONCLUSION

For the foregoing reasons, Henson respectfully requests that this Court grant its Petition and reverse the Fourth District's October 21, 2025 ruling.

Dated: November 25, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that the foregoing Petition for Leave to Appeal conforms to the requirements of Rules 315(d) and 341(a) and (b). The length of this Petition, excluding the pages containing the Rule 341(d) cover, the Rule 341(c) certificate of compliance, the certificate and proof of service, and those matters to be appended to the brief under Rule 315(c), is 18 pages (4,913 words).

/s/ Sara L. Chamberlain

CERTIFICATE OF FILING AND PROOF OF SERVICE

I certify that on November 25, 2025, I electronically filed the foregoing Petition for Leave to Appeal and the attached Appendix with the Clerk of the Illinois Supreme Court, by using the Odyssey eFileIL system.

I further certify that on the same date I served an electronic copy of the foregoing by email on the counsel named below who are also registered service contacts on the Odyssey eFileIL system, and thus will also be served through the Odyssey eFileIL system.

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Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct to the best of my knowledge, information, and belief.

/s/ *Sara L. Chamberlain*

2025 IL App (4th) 241422-U

NO. 4-24-1422

FILED
October 21, 2025
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

LAKESHORE RECYCLING SYSTEMS, LLC, Petitioner-Appellant, v. POLLUTION CONTROL BOARD, AMERICAN DISPOSAL SERVICES, INC., d/b/a REPUBLIC SERVICES OF BLOOMINGTON, McLEAN COUNTY, ILLINOIS and McLEAN COUNTY BOARD, Respondents-Appellees.	)))))))))	Appeal from the Pollution Control Board PCB 24-065

JUSTICE VANCIL delivered the judgment of the court.
Justices Knecht and Cavanagh concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed the decision of the Illinois Pollution Control Board, finding that the petitioner failed to send proper notice of its intent to request approval for siting of a new solid waste transfer facility to all property owners within 250 feet of the proposed site.

¶ 2 Petitioner, Lakeshore Recycling Systems, LLC (LRS), sought approval for the site of a new waste transfer facility in McLean County. The McLean County Board (County Board) approved the proposed site, but the Pollution Control Board (PCB) vacated that decision, finding LRS failed to notify all property owners within 250 feet of the lot lines of the proposed site, as required by section 39.2(b) of the Illinois Environmental Protection Act (IEPA) (415 ILCS 5/39.2(b) (West 2024)). LRS appeals the PCB's decision, arguing that the PCB misinterpreted section 39.2(b) and relied on incorrect property boundaries for the proposed facility.

¶ 3 We affirm.

¶ 4 I. BACKGROUND

¶ 5 LRS is a waste management and recycling company based in Illinois. On August 18, 2023, LRS applied to the McLean County Board for siting approval for its proposed "Henson Recycling Campus [(Campus)] Transfer Station" (the Facility), in unincorporated McLean County. It described the proposed station as "a state-of-the-practice facility where loads of municipal solid waste (MSW) from collection vehicles will be consolidated into larger loads for transport to a permitted landfill." The Facility would also consolidate single-stream recyclables to transport them to material recovery facilities. The application stated, "The proposed approximately 3.09-acre [Facility] will be located within and complement the existing operations at the approximately 42-acre [Campus]." The application included a legal description of the proposed 3.09-acre Facility site.

¶ 6 The record includes a real estate impact study, which contained the following diagram.

¶ 7 Respondent, Republic Services, Inc. (Republic), another waste management company that operates in McLean County, objected to LRS's application. It claimed that the

County Board lacked jurisdiction, because LRS failed to serve notice of its intent to submit its application on the owner of each property within 250 feet of the lot lines of the proposed site, as required by section 39.2(b) of the IEPA. Specifically, Republic claimed that the relevant lot lines were the boundaries of the entire 42-acre Campus, not the smaller 3.09-acre area. Republic contended that a manufactured home community was located within 250 feet of the boundaries of the Campus and LRS did not notify the owners of this property. Republic claimed that McLean County's authentic tax records did not recognize any separate lot that corresponded to the location of LRS's proposed 3.09-acre Facility. Instead, Republic claimed that the only legally recognized lot lines were those of the entire Campus. LRS had not served notice on all property owners within 250 feet of the boundaries of the Campus, and Republic argued that LRS had therefore not complied with the notice requirement in section 39.2.

¶ 8 On February 14, 2024, the McLean County Board approved LRS's application. It accepted the "legal description of the Facility set forth in the application." Based on this description, the McLean County Board found LRS had complied with section 39.2's notice requirements. After finding other statutory requirements satisfied, the County Board approved the application with certain conditions.

¶ 9 On March 14, 2024, Republic filed a petition with the PCB for review of the County Board's decision, largely repeating the arguments it made before the County Board itself. The PCB held a hearing on July 29, 2024. Six witnesses testified at the hearing, including the program administrator for the McLean County recording office, the McLean County treasurer and county collector, a McLean County Board member, the Geographic Information System specialist for the McLean County Supervisor of Assessments, a land surveyor, and the Chair of the McLean County Board.

¶ 10 The PCB vacated the McLean County Board's decision. Based on the parties' filings and the testimony presented at the hearing, it determined that LRS had not complied with the notice requirement in section 39.2.

¶ 11 The PCB found that the McLean County Zoning Department approved a preliminary plan to subdivide the original parcel of land, corresponding to the Campus, in February 2023. The County Recorder of Deeds recorded a new Assessment Plat on August 17, 2023. That same day, the County Supervisor of Assessments received a Parcel Control Change Request, which is used to record changes in parcels. The request was entered into Devnet, the county's system for tracking parcels, on January 18, 2024. On December 18, 2023, the 42-acre parcel was split apart in the Assessor's Office records, with the 3.09-acre proposed Facility site as one of the newly created parcels. Finally, the PCB found that LRS sent notices to nearby property owners on July 25, 2023, but it did not notify the owners of the manufactured home community located directly west of the Campus.

¶ 12 The PCB relied on McLean County's authentic tax records to determine the lot lines. It concluded that the Campus was the relevant property, the manufactured home park was within 250 feet of the lot line, and LRS failed to serve notice on the owner of the park. Citing the plain language of section 39.2(b) and the appellate court's decision in *Environmental Control Systems, Inc. v. Long*, 301 Ill. App. 3d 612, 623 (1998), the PCB found, "an applicant cannot themselves 'define' or decide what the subject property is under Section 39.2(b), and instead must look to the authentic tax records of the county where the facility is located." It added that the Assessment Plat was created *after* the notice was sent. Similarly, the Parcel Control Request form was not completed and the parcel change was not mapped in Devnet until after the notice deadline. Therefore, LRS could not rely on these documents to establish the Facility's existence

in the authentic tax records at the time of the notice. Based on the inadequate notice, the PCB found that the County Board lacked jurisdiction. See *Ogle County Board v. Pollution Control Board*, 272 Ill. App. 3d 184 (1995).

¶ 13 This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 LRS appeals the PCB's decision. We review questions of law, including questions of statutory interpretation, *de novo*. *Waste Management of Illinois, Inc., v. Illinois Pollution Control Board*, 356 Ill. App. 3d 229, 232 (2005). "[T]he interpretation of a statute by the agency charged with its administration is generally given deference; but it is not binding and, if erroneous, will be rejected." *Taddeo v. Board of Trustees of the Illinois Municipal Retirement Fund*, 216 Ill. 2d 590, 595 (2005). When the facts are not in dispute, whether the County Board had jurisdiction is also a question of law. *Waste Management of Illinois*, 356 Ill. App. 3d at 232.

¶ 16 Here, the parties do not dispute the PCB's findings of fact. Specifically, the parties agree that LRS did not send notice of its application to the owner of the manufactured home community located to the west of the Campus, and therefore, LRS did not notify the owner of every property within 250 feet of the 42-acre Campus. However, LRS challenges the PCB determination that the relevant lot lines were those of the entire Campus, not just the Facility and LRS's notices were therefore insufficient.

¶ 17 The PCB relied on section 39.2(b) of the IEPA, which provides;

> "(b) No later than 14 days before the date on which the county board or governing body of the municipality receives a request for site approval, the applicant shall cause written notice of such request to be served either in person or by registered mail, return receipt requested, on the owners of all property within

> the subject area not solely owned by the applicant, and on the owners of all property within 250 feet in each direction of the *lot line of the subject property*, said owners being such persons or entities which appear from the authentic tax records of the County in which such facility is to be located; provided, that the number of all feet occupied by all public roads, streets, alleys and other public ways shall be excluded in computing the 250 feet requirement; provided further, that in no event shall this requirement exceed 400 feet, including public streets, alleys and other public ways." (Emphasis added.) 415 ILCS 5/39.2(b) (West 2024).

¶ 18 The determinative question is how to ascertain the "lot line of the subject property." The PCB concluded that an applicant cannot define the lot lines of the proposed property itself. Instead, according to the PCB, the boundaries of the subject property are set by the "authentic tax records of the County in which such facility is to be located." *Id.* According to the PCB, because the proposed 3.09-acre Facility did not exist as a separate lot in McLean County's authentic tax records until after LRS sent its notices, the 3.09-acre area could not define the relevant lot lines. Instead, the county's authentic tax records acknowledged the entire Campus as one property, and the Campus provided the relevant lot lines for section 39.2's notice requirement.

¶ 19 LRS argues that the PCB erred. The text of section 39.2 specifies only, "[S]aid *owners* being such persons or entities which appear from the authentic tax records of the County in which such facility is to be located." (Emphasis added.) *Id.* LRS contends that section 39.2 requires applicants to consult the local authentic tax records to determine only who owns the neighboring properties, but it does not define the boundaries of the subject property using those

tax records. Instead, LRS contends that the "subject property" referred to in section 39.2 is "the *property* that is the *subject* of the siting application and for which, if siting is approved, a development permit will be sought." (Emphases original.) LRS insists that the applicant defines this subject property, not any tax records. Here, LRS's initial application defined the boundaries of the proposed lot as the 3.09-acre Facility. LRS adds that the Assessment Plat and preliminary subdivision plan recorded with the McLean County Recorder's Office also included these property lines.

¶ 20 LRS contends that the PCB's reading improperly adds new requirements into the statute. See *U.S. Steel Corp. v. Illinois Pollution Control Board*, 384 Ill. App. 3d 457, 463 (2008) (stating that courts "may not depart from the statute's plain language by reading into it exceptions, limitations, or conditions not expressed therein"). The text of section 39.2 does not state that the authentic tax records must identify the property's lot lines, nor does it state that those records must exist before the notice requirement is satisfied. LRS argues we should not add these requirements to the statute.

¶ 21 Respondents urge us to affirm the PCB's decision. Republic contends that even if the text of section 39.2 explicitly refers to authentic tax records only in defining "owners," we should read the rest of this section in this context. See *People v. Clark*, 2019 IL 122891, ¶ 20 ("A court must view the statute as a whole, construing words and phrases in light of other relevant statutory provisions and not in isolation."). The State insists that because the 3.09-acre Facility did not appear in McLean County's authentic tax records until after LRS sent its notices, the property lines of the entire Campus must be the relevant lot lines.

¶ 22 We find the text of section 39.2 ambiguous. Section 39.2 does not define the phrases "subject property" or "lot line." As LRS argues, section 39.2 explicitly invokes tax

records only in reference to the "owners" of the neighboring properties. It does not state explicitly that the tax records determine the boundaries of the subject property. However, the text also does not explicitly support LRS's contention that each applicant defines the boundaries of the subject property. If the text of section 39.2 does not conclusively resolve this issue in respondents' favor, neither does it resolve the issue in LRS's favor.

¶ 23 In this context, we note that courts afford some deference to an agency's interpretations of the statutes it administers. See *Taddeo*, 216 Ill. 2d at 595. "A significant reason for this deference is that courts appreciate that agencies can make informed judgments upon the issues, based upon their experience and expertise. *Illinois Consolidated Telephone Co. v. Illinois Commerce Comm'n*, 95 Ill. 2d 142, 153 (1983). Of course, we do not defer to the agency if we conclude that its decision is erroneous. See *Taddeo*, 216 Ill. 2d at 595.

¶ 24 We do not conclude that the PCB erred. Section 39.2 does not invoke the applicant's definition of the site at all. But its reference to "authentic tax records" provides useful context for defining the "lot lines." See *Clark*, 2019 IL 122891, ¶ 20; see also *Lehmann v. Revell*, 354 Ill. 262, 276 (1933) (finding no authority that provided a fixed definition for the term "lot," and instead, "courts always read and interpret it in connection with the context and the circumstances under which it is used"). Contrary to LRS's argument, the PCB's reading does not depart from the plain language of the statute by improperly adding new requirements to the statute. Indeed, section 39.2 creates a notice requirement explicitly. The phrases "lot lines" and "subject property" must have some definition, and the plain language of the statute is not conclusive.

¶ 25 The parties also discuss *Environmental Control Systems, Inc.*, 301 Ill. App. 3d 612. There, Environmental Control Systems (ECS) sought to develop a pollution control facility.

Id. at 614. It did not notify the owners of two properties within 250 feet of the lot on which the facility would be located. *Id.* at 622. It argued section 39.2 required only that it notify all the owners of property within 250 feet of the facility itself. *Id.* at 623. The appellate court rejected this claim, observing, "The language of the statute requires notification of owners of land within 250 feet of the *lot line*." (Emphasis in original.) *Id.* at 623 (citing Ill. Rev. Stat. 1989, ch. 111 ½, par. 1039.2(b)). The court added that the property's lot lines were recorded on the county's authentic tax records and assessor's map and the facility was located within one of the parcels. *Id.* The court found the phrase "lot line" in section 39.2 referred to the "greater parcel line," not the facility boundary, adding, "To conclude otherwise could result in abuse, with property owners in close proximity to a proposed [facility] not receiving notification because the applicant owns enough land surrounding the proposed [facility] to negate the 250-foot rule." *Id.*

¶ 26 Respondents argue the same reasoning applies here. As in *Environmental Control Systems*, LRS's proposed facility did not exist as a separate lot in the county's authentic tax records. Also like the applicant there, LRS improperly tried to measure the relevant boundaries based on only a small part of the property. Respondents urge us to find that the PCB's decision was consistent with *Environmental Control Systems*.

¶ 27 In attempting to distinguish *Environmental Control Systems*, LRS quotes the underlying PCB decision from that case to argue that ECS's original application defined the location boundaries using the larger area of the parcel on which the facility was located, instead of limiting the location boundaries to the facility itself. Indeed, ECS provided no separate legal description or specified lot lines for the facility itself. *See Madison County Conservation Alliance v. Madison County*, 1991 WL 143884, *3, 5 (Apr. 11, 1991) ("The description of the property, on which the regional pollution control facility will be located, refers to 210 acres.")

LRS insists that ECS could not define the lot lines expansively in its application, then define the lot lines restrictively for purposes of the notice requirement. According to LRS, this case is distinguishable because it has consistently claimed that the Facility sets the lot line, not the Campus. Moreover, the Facility has a distinct legal description and lot lines, included in the assessment plat and preliminary subdivision plan, unlike the proposed location in *Madison County Conservation Alliance*.

¶ 28 We do not find LRS's interpretation of *Environmental Control Systems* compelling. Even if the applicant in that case contradicted itself on the boundaries of its proposed lot, the appellate court in *Environmental Control Systems* did not rely on this. Instead, the court's reasoning related to the applicant's ability to define the boundaries without relying on lot lines, and specifically, those lot lines "detailed on the authentic tax records and assessor's map." *Environmental Control Systems*, 301 Ill. App. 3d at 623. Furthermore, LRS does not appear to claim that either the assessment plat or the preliminary subdivision plan were "authentic tax records," so we do not find that these documents establish the boundaries LRS relies on. See *Scott v. City of Chicago*, 2015 IL App (1st) 140570, ¶ 12 (explaining that a county's "authentic tax records" includes the records of county treasurer, clerk, and assessor).

¶ 29 Moreover, we find *Environmental Control Systems*'s reasoning compelling. As the court reasoned, if each applicant could define the boundaries of the subject property without reference to the authentic tax records, an applicant could avoid the notification requirement if the proposed facility was located within a lot that surrounded it by at least 250 feet on all sides. See *Environmental Control Systems*, 301 Ill. App. 3d at 623. The PCB reasonably did not read section 39.2 in this way.

¶ 30 LRS also relies on *Wabash & Lawrence County Taxpayers & Water Drinkers Ass'n v. Pollution Control Board*, 198 Ill. App. 3d 388 (1990). There, the applicant sought siting approval for a new facility on a 45-acre section of a larger parcel of land. *Id.* at 389. After the PCB approved the application, the petitioners appealed, arguing the applicant did not comply with section 39.2. The petitioner claimed that the applicant failed to notify all the heirs of the previous owner of the neighboring land. *Id.* at 390-91. The appellate court rejected this argument. It stated that "[u]nder section 39.2(b), notice is required to be sent to all owners of property within 250 feet of the property line of the proposed facility." *Id.* at 390. But the court added that section 39.2 defines "owners" based on the authentic tax records. Therefore, any heir whose name did not appear in the authentic tax records was not entitled to notice. *Id.* LRS cites *Wabash & Lawrence County Taxpayers* to support its argument that "authentic tax records" define only the owners of the neighboring property, not the lot lines.

¶ 31 *Wabash & Lawrence County Taxpayers* does not say this. Although the court there briefly noted that the proposed facility would be located "on a 45-acre portion of a 172-acre parcel of land," the boundaries of the subject property were simply not in dispute in that case. *Id.* at 389. The petitioner did not claim that the PCB accepted inappropriate boundaries for the subject property. The court the never discussed whether the proposed 45-acre facility site appeared in the authentic tax records, nor did it comment on the definition of the "lot lines" or "subject property." Instead, the court simply confirmed that the county's authentic tax records define the "owners." *Wabash & Lawrence County Taxpayers* does not compel a different result here.

¶ 32 In summary, we find the text of section 39.2 ambiguous. In deference to the PCB's reasonable interpretation of the statute and agreeing with the reasoning in *Environmental*

Control Systems, we find that section 39.2(b) required LRS to notify the owners of all properties within 250 feet of the lot lines of the Campus. It failed to do so. Therefore, the County Board lacked jurisdiction over LRS's application.

¶ 33 III. CONCLUSION

¶ 34 For the reasons stated, we affirm the PCB's decision.

¶ 35 Affirmed.