BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BYRON SANDBERG,

Petitioner,

vs.

CITY OF KANKAKEE, ILLINOIS, THE CITY OF KANKAKEE, ILLINOIS CITY COUNCIL, TOWN AND COUNTRY UTILITIES, INC., and KANKAKEE REGIONAL LANDFILL, L.L.C.,

Respondents.

Case No. PCB 04-33

WASTE MANAGEMENT OF ILLINOIS, INC.,

Petitioner,

vs.

THE CITY OF KANKAKEE, ILLINOIS CITY COUNCIL, TOWN AND COUNTRY UTILITIES, INC., and KANKAKEE REGIONAL LANDFILL, L.L.C.,

Respondents.

Case No. PCB 04-34

COUNTY OF KANKAKEE, ILLINOIS and EDWARD D. SMITH, KANKAKEE COUNTY STATE'S ATTORNEY,

Petitioners,

vs.

CITY OF KANKAKEE, ILLINOIS, THE CITY OF KANKAKEE, ILLINOIS CITY COUNCIL, TOWN AND COUNTRY UTILITIES, INC., and KANKAKEE REGIONAL LANDFILL, L.L.C.,

Respondents.

Case No. PCB 04-35

PETITIONERS' COUNTY OF KANKAKEE, ILLINOIS AND EDWARD D. SMITH, KANKAKEE COUNTY STATE'S ATTORNEYS RESPONSE TO RESPONDENT, TOWN & COUNTRY UTILITIES, INC.'S REQUEST FOR ADMISSION OF FACTS AND GENUINENESS OF DOCUMENTS

NOW COME the Petitioners, COUNTY OF KANKAKEE, ILLINOIS and EDWARD D. SMITH, KANKAKEE COUNTY STATE'S ATTORNEY, by and through their attorneys, HINSHAW & CULBERTSON, and for their Response to Respondent's, TOWN & COUNTRY UTILITIES, INC.'s, Request for Admission of Facts and Genuineness of Documents, states as follows:

1. The authentic tax records of Kankakee County, Illinois, are maintained by the Kankakee County Assessor and the Kankakee County Treasurer in a shared database.

RESPONSE: Objection, this is not a request for admission of fact and rather seeks the admission of a legal conclusion as to what constitutes the "authentic tax records". Subject to this objection and without waiving same, the Kankakee County Assessor and the Kankakee County treasurer do utilize a shared data base.

2. The shared database of the Kankakee County Assessor and Kankakee County Treasurer represents the most accurate, up-to-date, and authentic records of property ownership in Kankakee County.

RESPONSE: Deny. The most up to date and authentic records of property ownership in Kankakee County are kept with the County Recorder.

3. All property owners entitled to service of pre-filing notice are named in Exhibit "A" of the service affidavit.

RESPONSE: Objection, this Petitioner has insufficient knowledge to admit that each and every owner entitled to service is named in Exhibit A and, rather, the Petitioner demands strict proof thereof. Subject to this objection, and without waiving same, this Petitioner is aware that the shared database of the treasurer and assessor's office provide that the Bradshaw property owners were Gary Bradshaw, James Bradshaw, Jay Bradshaw, Ted Bradshaw and Denise Fogle. Exhibit A indicates that those owners are c/o Judith Skates only, which would seem to indicate she is the only recognized owner, which is erroneous. Therefore though the Petitioner

has not at this time verified that all other owners entitled to notice are appropriately named in Exhibit A, the Petitioner denies this allegation based at least on the Bradshaw property.

4. The affidavits of service and certified mail receipts attached to the service affidavit as group Exhibit "C" are true and correct copies of said affidavits and receipts.

RESPONSE: Objection, the County of Kankakee has no personal knowledge of whether the service affidavits are true and correct copies.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

RICHARD S. PORTER
On behalf of the COUNTY OF KANKAKEE, ILLINOIS, and EDWARD D. SMITH, KANKAKEE COUNTY STATE'S ATTORNEY,

SUBSCRIBED and SWORN to
before me this 7th day of November, 2003.

Danita M. Heaney
Notary Public

"OFFICIAL SEAL"
DANITA M. HEANEY
Notary Public, State of Illinois
My Commission Expires 6/12/2004

HINSHAW AND CULBERTSON
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AFFIDAVIT OF SERVICE

The undersigned, pursuant to the provisions of Section 1-109 of the Illinois Code of Civil Procedure, hereby under penalty of perjury under the laws of the United States of America, certifies that on November 7, 2003, a copy of the foregoing was served upon:

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Chicago, IL 60601-3218

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By faxing and by depositing a copy thereof, enclosed in an envelope in the United States Mail at Rockford, Illinois, proper postage prepaid, before the hour of 5:00 P.M., addressed as above.

Donald Heaney

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BYRON SANDBERG, Petitioner, vs. CITY OF KANKAKEE, ILLINOIS, THE CITY OF KANKAKEE, ILLINOIS CITY COUNCIL, TOWN AND COUNTRY UTILITIES, INC., and KANKAKEE REGIONAL LANDFILL, L.L.C., Respondents.	Case No. PCB 04-33
WASTE MANAGEMENT OF ILLINOIS, INC., Petitioner, vs. THE CITY OF KANKAKEE, ILLINOIS CITY COUNCIL, TOWN AND COUNTRY UTILITIES, INC., and KANKAKEE REGIONAL LANDFILL, L.L.C., Respondents.	Case No. PCB 04-34
COUNTY OF KANKAKEE, ILLINOIS and EDWARD D. SMITH, KANKAKEE COUNTY STATE'S ATTORNEY, Petitioners, vs. CITY OF KANKAKEE, ILLINOIS, THE CITY OF KANKAKEE, ILLINOIS CITY COUNCIL, TOWN AND COUNTRY UTILITIES, INC., and KANKAKEE REGIONAL LANDFILL, L.L.C., Respondents.	Case No. PCB 04-35

PETITIONERS', COUNTY OF KANKAKEE, ILLINOIS AND EDWARD D. SMITH, KANKAKEE COUNTY STATE'S ATTORNEY, ANSWERS TO RESPONDENT, TOWN & COUNTRY UTILITIES, INC.'S, INTERROGATORIES

NOW COME the Petitioners, COUNTY OF KANKAKEE, ILLINOIS AND EDWARD D. SMITH, KANKAKEE COUNTY STATE'S ATTORNEY, by and through their attorneys, HINSHAW & CULBERTSON, and for their Answers to Respondent, TOWN & COUNTRY UTILITIES, INC.'S, Interrogatories, state as follows:

1. Identify the person answering these Interrogatories and, if different, identify the person signing these answers.

ANSWER: Richard S. Porter, Special Assistant State's Attorney for County of Kankakee, Illinois.

2. State the factual basis of any claim that the City lacked jurisdiction to conduct the siting hearing.

ANSWER: 1) See Petition for Review, investigation continues.

2) The application filed on March 17, 2003 by Town & Country was substantially the same as the application filed on March 13, 2002 because the design, location and operation plan contained in both applications were identical.

3) The application filed on March 17, 2003 was incomplete, as it failed to contain sensitivity analyses.

4) The applicant failed to establish that proper notice was given to all landowners within 250 feet of the proposed landfill, as there are no return receipts for some of the owners and many receipts were signed by individuals who were not the actual owners and with no proof that these individuals were authorized agents of the owners. Specifically, the following defects in notice existed:

a. Although the Applicant identifies that a parcel was owned by Gary L. Bradshaw, James R. Bradshaw, Jay D. Bradshaw, Ted A. Bradshaw, Denise Fogel and Judith A. Skates, notice was sent only to Judith A. Skates' address and not to the addresses of any of the other listed owners.

b. The following certified mail return receipts were not signed by the addresses, his or her agent or even an apparent family member:

(i) Certified mailing sent to Gary L. Bradshaw, James R. Bradshaw, Jay D. Bradshaw, Ted Bradshaw and Denise Fogle was signed for by Judith Skates.

(ii) Certified mailing addressed to Linda Skeen was signed for by Coralee Skeen, who did not declare herself as her agent. Coralee Skeen also signed for Certified mailings addressed to Geraldine M. Cann, Shirley A. Marion, Delmar L. Skeen, Robert S. Skeen, Norma J. Stauffenberg, Judith M. Trepanier, and Skeen Farms, but did not declare herself as agent for any of the above. Robert S. Skeen later signed for a Certified mailing himself at 1590 W. 3500 S. Rd., Kankakee, IL 60901. Coralee Skeen had previously signed a Certified mailing for Robert S. Skeen at that same address.

(iii) Certified mailing addressed to Willie Walker was signed for by Leslie Wilson, Jr., who was not declared as an agent.

(iv) E. Paquette signed for Certified mailings addressed to David Ledoux, Rebecca Ledoux, and Norman L. Paquette, but did not declare herself as an agent of them. E. Paquette did sign for her own Certified mailing.

(v) Certified mailings addressed to Frederick Forte and Mary Thompson were signed for by Lana Forte, who did not declare herself as an agent of either.

(vi) Certified mailing addressed to Kankakee Federal Savings Bank was signed for by Karen Clutz, who did not declare herself as its agent.

(vii) Certified mailings addressed to ICC Railroad and Illinois Central Railroad Co. Real Estate Tax Dept. were signed for by R. Jedlinski, who did not declare himself as agent of either.

(viii) Certified mailing addressed to Leland Milk was signed for by someone who I could not read their handwriting, and who did not declare themself as an agent.

(ix) Certified mailing addressed to Milo Fleming was signed for by Nancy Davenport, who did not declare herself as his agent.

(x) Certified mailing addressed to Charles R. Burke was signed for by Mary Grace, who did not declare herself to be his agent.

c. The following certified mailings were sent to government personnel, but not signed for by agents:

(xi) Certified mailing addressed to Pat Welch, State Senator, was signed for by L. Bland, who did not declare herself agent.

(xii) Certified mailing addressed to Debbie Halvorsen, State Representative, was signed for by Jeanne Mathy, who did not declare herself as her agent.

(xiii) Certified mailing addressed to Lawrence Walsh, State Senator, was signed for by Beverly Edman, who did not declare herself as his agent. The Certified mailing to Mr. Walsh was not on the Notice List but was found in the return receipts.

(xiv) Certified mailing addressed to John Novak, State Representative, was signed for by Colleen Priebal, who did not declare herself as his agent.

d. The following Certified mailings were signed by apparent family relations, who were not declared as agents:

(xv) Certified mailing addressed to Michael P. Belluso was signed for by Yolanda M. Belluso, who did not declare herself as his agent.

(xvi) Certified mailing addressed to Lawrence L. Horrell by was signed for by Patti Horrell as addressee.

(xvii) Certified mailing addressed to William Ohrt was signed for by Marilyn Ohrt, but she did not declare herself as his agent.

(xviii) Certified mailings addressed to Jeannine Kinkin and Russell Kinkin were signed for by Danny Kinkin, who did not declare himself their agent.

(xix) Certified mailing addressed to Jill A. Hansen was signed for by Kevin Hansen, but he did not declare he was her agent. A Certified mailing addressed to Kevin Hansen contained a different address than it was addressed to: 876 E. 3100 N. Rd., Clifton, IL 60927, but it was signed for by Kevin Hansen.

(xx) Certified mailing addressed to Bessie Jordan was signed for by Jake Jordan, who did not declare himself as her agent.

(xxi) Certified mailing addressed to Rose Perkins was signed for by Domesha Perkins, who did not declare herself as her agent.

(xxii) Certified mailing addressed to Louise Gutierrez was signed for by Adrian Gutierrez, who did not declare himself as her agent. This occurred twice.

(xxiii) Certified mailing addressed to Donald Benoit was signed for by Barbara Benoit, who did not declare herself as his agent.

(xxiv) On each of these parcels the box on the return receipt which indicates that the signor was the agent of the addressee was not marked. Therefore, each such receipt on its face, indicates the signor was not the agent of the addressee. No further documentation was submitted by the Applicant to confirm either: (1) that the individual who did accept service for a specific parcel was the authorized agent of the owners of that parcel; or (2) that the owners that appear in the authentic tax records of the County actually received the pre-filing notice in a timely fashion.

e. The following were signed by individuals other than the owner, but the "agent" box on the receipt was checked:

(xxv) Certified mailing addressed to Minnie Creek Drainage District was signed for by Bret Perreautt as agent.

(xxvi) Certified mailing addressed to Ron Thompson, Otto Township Supervisor, was signed for by Betty Thompson as agent. A new address was indicated: 803 E. Rosanne Cir., Kankakee, IL 60901.

(xxvii) Certified mailing addressed to Dr. Shari L. Marshall, Superintendent of Schools for Central Community Unit District #4, was signed for by Cindy Saxson as agent.

(xxviii) Certified mailing addressed to IDOT was signed for by Patrick Woulfe as agent.

(xxix) Certified mailing addressed to Mary K. O'Brien, State Representative, was signed for by Mike McGuire as agent.

(xxx) Certified mailing addressed to Katie Cooper was signed for by Charles Cooper as her agent.

(xxxi) Certified mailing addressed to Randy Tobenski was signed for by Randy Tobenski as agent.

(xxxii) Certified mailing addressed to John F. Mullin was signed for by Rita Mullin as agent.

(xxxiii) Certified mailing addressed to Bret Perreault was signed for by Margaret Perreault as agent. Also listed was a different address: 4527 S. 5000 W, Kankakee, IL 60901

(xxxiv) Certified mailing addressed to Margie A. Hartman was signed for by Gerald Hartman as agent and addressee.

3. Identify each and every member of the City Council who you claim prejudged or failed to judge whether Kankakee Regional Landfill, LLC and Town & Country Utilities, Inc. that satisfied the statutory criteria, and for each member identified, state the basis for your claim.

ANSWER: See Petition for Review. The City Council pre-judged the Application as evidenced by the extensive pre-filing and post-filing contacts, including the February 19, 2002 hearing that was held in front of the City Council (without notice to any landowners or objectors) concerning the Applicant's purported compliance with the Section 39.2 criteria, numerous other meetings and discussions of representatives of the City Council occurred with the Applicant both before and after the filing of the Application, including those described and evidenced in regard to Town & Country I. Furthermore, as Mr. Werthmann explicitly testified, he and other representatives of the Applicant had discussions with the City Council or its agents after the filing of the instant Application and before decision. The pre-adjudication by the City Council was further evidenced by it directing its attorneys to file a declaratory judgment and injunctive action against the County of Kankakee in the Circuit Court of the 21st Judicial Circuit, City of Kankakee v. County of Kankakee, 02-CH-400, wherein the City attempted to enjoin the County from funding its defense of its solid waste management plan which called for only one landfill and from funding its opposition to the joint venture of the Applicant and the City to site a landfill which clearly violates the County Solid Waste Management Plan. The obvious pre-adjudication of the merits was further evidenced by the City filing another injunctive case, before the Section 39.2 hearing in this matter, against the County, seeking to bar the County from enforcing its solid waste management plan or participating in the Section 39.2 siting hearing. City of Kankakee v. County of Kankakee, 21st Judicial Circuit, 3-CH-166. Within that proceeding the City judicially admitted its pre-adjudication of the application because the City asserted the County of Kankakee was "attempting to interfere with the siting by the City." The City further argued that the solid waste management plan "restrict[ed] the City's right to site a facility within its boundaries." The City alleged it would be caused irreparable harm if the County was not enjoined from participating in the City's siting hearing because the City argued the practical effect of the County plan was to prohibit the City from siting a second landfill "anywhere but adjacent to the County's current landfill." Upon information and belief he City Council directed its attorneys to file the aforementioned causes of action. therefore, it is abundantly clear that the City Council had already decided that it would approve the application of Town & Country Utilities, Inc. before the Section 39.2 hearings. Investigation continues.

4. Identify each and every document or other writing that shows or tends to show that any member of the City Council prejudged, or failed to judge, whether Kankakee Regional Landfill, LLC and Town & Country Utilities, Inc. had satisfied the statutory criteria.

ANSWER: Objection, to the extent this interrogatory seeks discovery concerning the bases for the Petitioner's claim that the decision of the City Council, as to certain criteria of Section 39.2 of the Act, was against the manifest weight of the evidence, such is beyond the scope of discovery in this proceeding. Subject to this objection, and without waiving same, to the extent this interrogatory seeks information on pre-adjudication of the merits and the lack of fundamental fairness, see answer to Interrogatory #3 and the entire record of the Town & Coutnry I proceeding, all of the discovery that was exchanged in regard to Town & Country I, the pleadings concerning the aforementioned lawsuits filed by the City of Kankakee against the County of Kankakee, any minutes of City Council meetings concerning the filing of the aforementioned lawsuits or communications with the Applicant, (copies of which should be produced by the City of Kankakee in response to the discovery propounded by this Petitioner). Investigation continues.

5. If you are aware of any oral statement or conduct by any member of the City Council evidencing a bias in favor of the Applicant or Application, for each such oral statement or conduct:

a. Describe the oral statement or conduct;

b. State when and where such oral statement was made or such conduct occurred; and

c. Identify all witnesses to such oral statement or conduct.

ANSWER: See answer to Interrogatory #3; all of the documents previously produced in Town & Country I; minutes of the February 19, 2002 meeting; any minutes of meetings concerning the filing of the aforementioned lawsuits against the County of Kankakee, various newspaper and media quotations of City Council members, investigation continues.

6. If you are aware of any impermissible ex parte contact between any member of the City Council and any representative of Kankakee Regional Landfill, LLC and Town & Country Utilities, Inc., for each such contact:

a. Describe the nature of the contact;

b. State when and where such contact occurred, and;

c. Identify all witnesses to such contact.

ANSWER: See answer to Interrogatory #3.

7. Identify each and every pre-filing and post-filing contact between the Applicant and the City, and/or their respective agents or representatives, which you claim to be prejudicial or supportive of allegations of prejudgment, and for each such contact set forth the facts which prove that such contact occurred and the facts which support the allegation that such contacts were prejudicial or supportive of allegations of prejudgment.

ANSWER: See answer to Interrogatory #3.

8. State any and all other instances of fundamental unfairness claimed by you, and for each instance:

a. State the factual basis for such claim;

b. Identify each person who has knowledge of such claim;

c. State the substance of each such person's knowledge, and

d. Identify each document that supports, or tends to support, such claim.

ANSWER: See Petition for Review and answer to Interrogatory #3, investigation continues.

9. Identify each landowner entitled to pre-filing notice who did not receive the same, and for each such landowner, set forth the facts supporting the allegation that he or she was entitled to pre-filing notice and the facts supporting the allegation that he or she did not receive

the same. Also, identify any documents supporting the allegation that any landowner entitled to receive notice did not receive the same.

ANSWER: See Answer to Interrogatory No. 2. Likewise, each owner of a property who was entitled to notice which did not personally sign the returned receipt was denied proper pre-filing notice. Gary Bradshaw, James Bradshaw, Jay Bradshaw, Ted Bradshaw, and Denise Fogle were all entitled to be sent pre-filing notices, however, none of these individuals were sent such a notice. Investigation continues.

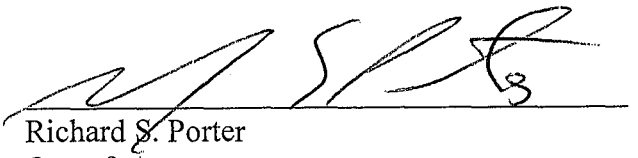
10. Identify each witness who you will call to testify at the hearing on the Petition, and describe in detail the subject matter on which that witness will testify and the substance of the expected testimony.

ANSWER: This Petitioner has not yet determined which witnesses it expects to call at hearing, investigation continues.

Respectfully Submitted,

On behalf of the COUNTY OF KANKAKEE, ILLINOIS, and EDWARD D. SMITH, KANKAKEE COUNTY STATE'S ATTORNEY,

By: Hinshaw & Culbertson



Richard S. Porter
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AFFIDAVIT OF SERVICE

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Danita Healy

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BYRON SANDBERG, Petitioner, vs. CITY OF KANKAKEE, ILLINOIS, THE CITY OF KANKAKEE, ILLINOIS CITY COUNCIL, TOWN AND COUNTRY UTILITIES, INC., and KANKAKEE REGIONAL LANDFILL, L.L.C., Respondents.	Case No. PCB 04-33
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PETITIONERS', COUNTY OF KANKAKEE, ILLINOIS AND EDWARD D. SMITH, KANKAKEE COUNTY STATE'S ATTORNEY, RESPONSE TO RESPONDENT, TOWN & COUNTRY UTILITIES, INC.'S REQUEST FOR PRODUCTION OF DOCUMENTS

NOW COME the Petitioners, COUNTY OF KANKAKEE, ILLINOIS and EDWARD D. SMITH, KANKAKEE COUNTY STATE'S ATTORNEY, and for their Response to Respondent, TOWN & COUNTRY UTILITIES, INC.'s, Request for Production of Documents, states as follows:

1. All statements relating to any issue raised in the Petition filed herein, including notes and memoranda of conversations and tape recordings of any statements not transcribed.

RESPONSE: See all documents exchanged in regard to County of Kankakee v. Town & Country Utilities, Inc., et al., PCB 03-31, 33, 35 (IPCB 2002) (Town & Country I); see Complaint for Declaratory Judgment, 21st Judicial Circuit, 2-CH-400, attached hereto; see the exhibits to Defendant's Motion to Quash filed in this case; see the record for the City of Kankakee proceedings; investigation continues.

2. All documents that have been identified in Petitioner's Responses to the Interrogatories propounded by the Respondent, Town & Country Utilities, Inc.

RESPONSE: Attached hereto is a copy of the Complaint for Declaratory Injunctive Relief, all other documents referenced in the response to interrogatories have already been produced to Town & Country in the prior proceedings, or in the underlying City of Kankakee hearing; investigation continues.

3. All reports of any kind, nature or extent whatsoever that have been prepared by or relied upon by any witness who will give opinion testimony during the hearing in this cause.

RESPONSE: Not applicable.

4. All documents Petitioner intends to present as evidence during the hearing in this cause.

RESPONSE: All of the documents upon which Petitioner will rely have been produced to Town & Country Utilities, Inc. previously or are a part of the underlying record, or will be seasonably supplemented, investigation continues.

5. All documents Petitioner relies upon in support of any of the allegations in the Petitioner for Review of Site Location Approval.

RESPONSE: See response to request #4.

6. Any other document not otherwise produced that regards, relates to, or concerns Petitioners' claim that (a) the Kankakee City Council lacked jurisdiction to conduct the siting hearing, or (b) the process conducted by the Kankakee City Council was fundamentally unfair.

RESPONSE: See response to request #4.

Respectfully Submitted,

On behalf of the COUNTY OF KANKAKEE, ILLINOIS, and EDWARD D. SMITH, KANKAKEE COUNTY STATE'S ATTORNEY,

By: Hinshaw & Culbertson

Richard S. Porter
One of Attorneys

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AFFIDAVIT OF SERVICE

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Illinois Pollution Control Board
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100 W. Randolph Street
Chicago, IL 60601
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By faxing and by depositing a copy thereof, enclosed in an envelope in the United States Mail at Rockford, Illinois, proper postage prepaid, before the hour of 5:00 P.M., addressed as above.

Donda Hearly

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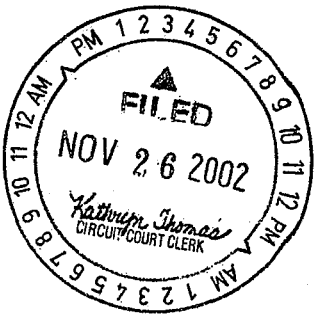
(5)

IN THE CIRCUIT COURT FOR THE TWENTY-FIRST JUDICIAL CIRCUIT
KANKAKEE COUNTY, ILLINOIS

CITY OF KANKAKEE, an Illinois municipal corporation, and DONALD E. GREEN, individually and as Mayor of the City of Kankakee,	)	
PLAINTIFFS,	)	
vs.	)	NO. 02-CH 400
COUNTY OF KANKAKEE,	)	
DEFENDANT.	)	



COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Now come the plaintiffs, CITY OF KANKAKEE, an Illinois municipal corporation, and DONALD E. GREEN, individually and as Mayor of the City of Kankakee, by and through CHRISTOPHER W. BOHLEN, Corporation Counsel for the City of Kankakee, and complain of the defendant, COUNTY OF KANKAKEE, by alleging and stating as follows:

COUNT I
CLAIM FOR DECLARATORY RELIEF

I. PARTIES AND VENUE

1. The plaintiff, CITY OF KANKAKEE, is a municipal corporation of the State of Illinois and is located within the County of Kankakee.

2. The plaintiff, DONALD E. GREEN, is an individual who resides in the City of Kankakee and has been the duly-elected Mayor of the City of Kankakee.

3. The defendant, COUNTY OF KANKAKEE, is a municipal corporation located in the County of Kankakee and is operated by a legislature consisting of a Board of Supervisors and, from that board, a duly-elected chairman of the Board of Supervisors.

II. CLAIM

4. This action for declaratory relief is brought pursuant to 735 ILCS 5/2-701 against the defendant, County of Kankakee.

5. The City of Kankakee, as a municipal corporation, is responsible for the collection and disposal of solid waste generated by the residents of each municipality.

6. The Mayor of the City of Kankakee is required, pursuant to applicable regulations of the Illinois Environmental Protection Act, applicable statutes of the State of Illinois, and other applicable regulations, to assure that the solid waste collection system is accomplished in accordance with said applicable rules and regulations, including meeting the goals established by the County of Kankakee Solid Waste Plan regarding the elimination of recyclable materials from the collection and disposal of the solid waste collected in said municipality.

7. Donald E. Green is also a resident of the City of Kankakee and has an interest in assuring that the municipality is in compliance with all applicable ordinances and regulations and, as an individual taxpayer and payor of fees for the services provided, has a direct pecuniary interest in any funds available for the purposes of defraying any of said costs.

8. For purposes of this complaint, the defendant, County of Kankakee, is a unit of local government as defined in the Local Solid Waste Disposal Act, in which a solid waste disposal facility is located pursuant to the terms of 415 ILCS 5/22.15(j).

9. Pursuant to said statutory provisions, the County of Kankakee is authorized to establish, and has, in fact, established, a fee, tax or surcharge with regard to the permanent disposal of solid waste in the amount of $1.27 per ton effective January 1, 1992, and thereafter. In addition, the County of

Kankakee had established a fee, tax or surcharge on the disposal of solid waste in the amount of $.95 prior to January 1, 1992.

10. Pursuant to said statutory provisions, the defendant, County of Kankakee, was required as follows:

> The fees, taxes or surcharges collected under this subsection (j) shall be placed by the unit of local government in a separate fund, and the interest received on the monies in the fund shall be credited to the fund. The monies in the fund may be accumulated over a period of years to be expended in accordance with this subsection.

Further, pursuant to said subsection:

> The funds received are "to be utilized for solid waste management purposes, including long-term monitoring and maintenance of landfills, planning, implementation, inspection, enforcement and other activities consistent with the Solid Waste Management Act and the local Solid Waste Disposal Act."

11. Based upon information and belief, the County of Kankakee has expended said funds in such a manner that is in violation of the Act. Specifically, the County of Kankakee has expended funds to:

(a) Reimburse the general fund of Kankakee County for expenditures involved in the litigation against the City of Kankakee in the amount currently in excess of One Hundred Twenty Thousand and No/100 Dollars ($120,000.00);

(b) Reimburse the general fund of Kankakee County for expenditures made to pay for salaries of the Planning Department of the County of Kankakee and for which no allocation of time has justified the reimbursement of said expenditures;

(c) Pay for solid waste planning for which no planning has occurred;

(d) Loan said funds to the defendant's general fund without repayment of said funds from the general fund and without the generation of interest as a result of said loan; and

(e) In other ways has misused and misappropriated the funds obtained as a result of said fees.

12. The expenditures made herein by the County of Kankakee are not justified and are in violation of the applicable provisions of the Act and are inconsistent with the purposes for which said funds were collected.

13. The municipal corporation herein has applied with other municipal corporations to use said funds for purposes of recycling and other projects related to solid waste disposal. However, said request for reimbursement has generally been limited in amount or denied totally.

14. The funds, if utilized in accordance with the Act, would have been and can be used for purposes of assisting in reduction of the amount of solid waste to be disposed of and/or for the planning and obtaining of resources for the assistance of local municipalities, including the plaintiff, City of Kankakee, which are engaged in the actual collection and disposal of solid waste.

15. An actual controversy exists in that said funds are currently being used for reimbursement of legal expenses related to the siting of a landfill by Kankakee County, as well as in opposition to the siting of a landfill by the City of Kankakee.

16. The use of said funds for any purpose not consistent with the Act is in violation of the Act, and the Kankakee County Board should be required to reimburse the funds to assure that the money is available and used for purposes consistent with the statutes previously cited herein.

III. RELIEF REQUESTED

17. The plaintiffs herein request that this Court enter a judgment determining that the County's utilization of said funds, for all purposes other than those consistent with the Act as it should be strictly construed, be determined to be improper and enter an order requiring the County of Kankakee to reimburse the funds established pursuant to said applicable statutory provisions for all monies improperly expended.

WHEREFORE, the plaintiffs, CITY OF KANKAKEE, an Illinois municipal corporation, and DONALD E. GREEN, individually and as Mayor of the City of Kankakee, request this Court enter a order declaring the use of said funds by the defendant, COUNTY OF KANKAKEE, to be improper and illegal and, further, to enter a judgment against the COUNTY OF KANKAKEE, requiring the County to reimburse said funds herein.

COUNT II
CLAIM FOR INJUNCTIVE RELIEF

I. PARTIES AND VENUE

1. The plaintiff, CITY OF KANKAKEE, is a municipal corporation of the State of Illinois and is located within the County of Kankakee.

2. The plaintiff, DONALD E. GREEN, is an individual who resides in the City of Kankakee and has been the duly-elected Mayor of the City of Kankakee.

3. The defendant, COUNTY OF KANKAKEE, is a municipal corporation located in the County of Kankakee and is operated by a legislature consisting of a Board of Supervisors and, from that board, a duly-elected chairman of the Board of Supervisors.

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6. The Mayor of the City of Kankakee is required, pursuant to applicable regulations of the Illinois Environmental Protection Act, applicable statutes of the State of Illinois, and other applicable regulations, to assure that the solid waste collection system is accomplished in accordance with said

applicable rules and regulations, including meeting the goals established by the County of Kankakee Solid Waste Plan regarding the elimination of recyclable materials from the collection and disposal of the solid waste collected in said municipality.

7. Donald E. Green is also a resident of the City of Kankakee and has an interest in assuring that the municipality is in compliance with all applicable ordinances and regulations and, as an individual taxpayer and payor of fees for the services provided, has a direct pecuniary interest in any funds available for the purposes of defraying any of said costs.

8. For purposes of this complaint, the defendant, County of Kankakee, is a unit of local government as defined in the Local Solid Waste Disposal Act, in which a solid waste disposal facility is located pursuant to the terms of 415 ILCS 5/22.15(j).

9. Pursuant to said statutory provisions, the County of Kankakee is authorized to establish, and has, in fact, established, a fee, tax or surcharge with regard to the permanent disposal of solid waste in the amount of $1.27 per ton effective January 1, 1992, and thereafter. In addition, the County of Kankakee had established a fee tax or surcharge on the disposal of solid waste in the amount of $.95 prior to January 1, 1992.

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Further, pursuant to said subsection:

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11. Based upon information and belief, the County of Kankakee has expended said funds in such a manner that is in violation of the Act. Specifically, the County of Kankakee has expended funds to:

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(c) Pay for solid waste planning for which no planning has occurred;

(d) Loan said funds to the defendant's general fund without repayment of said funds from the general fund and without the generation of interest as a result of said loan; and

(e) In other ways has misused and misappropriated the funds obtained as a result of said fees.

12. The expenditures made herein by the County of Kankakee are not justified and are in violation of the applicable provisions of the Act and are inconsistent with the purposes for which said funds were collected.

13. The municipal corporation herein has applied with other municipal corporations to use said funds for purposes of recycling and other projects related to solid waste disposal. However, said request for reimbursement has generally been limited in amount or denied totally.

14. The funds, if utilized in accordance with the Act, would have been and can be used for purposes of assisting in reduction of the amount of solid waste to be disposed of and/or for the planning

and obtaining of resources for the assistance of local municipalities, including the plaintiff, City of Kankakee, which are engaged in the actual collection and disposal of solid waste.

15. An actual controversy exists in that said funds are currently being used for reimbursement of legal expenses related to the siting of a landfill by Kankakee County, as well as in opposition to the siting of a landfill by the City of Kankakee.

16. The use of said funds for any purpose not consistent with the Act is in violation of the Act, and the Kankakee County Board should be required to reimburse the funds to assure that the money is available and used for purposes consistent with the statutes previously cited herein.

17. The plaintiff bring this cause of action for an injunction seeking to enjoin the defendant from any further misappropriate, misuse or improper expenditure of the funds described in said section.

18. The plaintiffs have no remedy at law in that if said injunction is not entered, the County of Kankakee will continue to use said funds improperly in the future, as they have done so up to this point in time.

III. RELIEF REQUESTED

19. The plaintiffs request this Court to grant them injunctive relief against the defendant, enjoining the defendant from improper expenditure of funds.

WHEREFORE, the plaintiffs, CITY OF KANKAKEE, an Illinois municipal corporation, and DONALD E. GREEN, individually and as Mayor of the City of Kankakee, request this court:

A. Enter a judgment declaring that the expenditure of funds by the defendant, COUNTY OF KANKAKEE, has been and is illegal and improper;

B. Issue an injunction prohibiting the defendant, COUNTY OF KANKAKEE, from further expending said funds in an illegal and improper manner;

C. Award the plaintiffs the cost of this action; and

D. Award the plaintiffs any other and further relief as it considers proper.

Respectfully submitted,

CITY OF KANKAKEE, an Illinois municipal corporation, and DONALD E. GREEN, individually and as Mayor of the City of Kankakee, plaintiffs,

By _____
Christopher W. Bohlen
Corporation Counsel

STATE OF ILLINOIS

COUNTY OF KANKAKEE

DONALD E. GREEN, being first duly sworn and under oath, deposes and states that he is one of the plaintiffs in the above-entitled cause, that he is the Mayor of City of Kankakee, that he has read the above and foregoing Complaint for Declaratory and Injunctive Relief, and that the contents therein contained are true and correct to the best of his knowledge, information and belief.

_____
Donald E. Green

Subscribed and sworn to before me

this 22 day of November, 2002.

_____
Notary Public

"OFFICIAL SEAL"
Tamara Kay Perkins
Notary Public, State of Illinois
Kankakee County
My Commission Expires 01/22/2003

CHRISTOPHER W. BOHLEN
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