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Firm Assists in Appellate Victory for NYC's Waste Equity Law

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January 19, 2021 – In a pro bono victory, HHR helped New York City's "waste equity law" prevail against another challenge from the waste industry in a state appeals court.

The firm served as co-counsel with the New York Lawyers for Public Interest (NYLPI) to file an amicus brief on behalf of several local community groups to support the law, which aims to reduce the amount of trash dumped by for-profit commercial waste haulers in low-income communities.

On Dec. 17, the New York Appellate Division's First Department upheld a lower court's dismissal of a lawsuit brought by a business coalition. In October 2019, New York Supreme Court Justice Verna Saunders ruled that the petitioners did not prove that the law was arbitrary, capricious or made in violation of lawful procedure.

NYLPI worked with the community groups for years to lobby for passage of the law by the New York City Council, which occurred in the summer of 2018 to address the overburdening of communities with most of the city's waste truck traffic and tonnage.

The law requires more than 20 transfer stations in Brooklyn, Queens and the Bronx to reduce their capacity by as much as 33 to 50 percent when their permits are up for renewal. The affected neighborhoods are home to 26 of the city's 38 waste transfer stations, suffered from hundreds of truck trips per day, diesel fumes and high asthma rates.

The National Waste & Recycling Association, a trade organization of commercial waste transfer stations, including those concentrated in the affected neighborhoods, sued in November 2018 in a bid to block the law. The association argued that the city ignored required environmental reviews to pass a law that would instead increase traffic and air pollution and eliminate hundreds of jobs in low-income communities.

In response, NYLPI teamed up with HHR to file an amicus brief to elevate the community voices who will benefit from this law. The brief noted that, for decades, the vast majority of New York City's garbage from restaurants and

other commercial customers has been trucked to just four overburdened districts in North Brooklyn, the South Bronx and Southeast Queens “that bear a disproportionate share of polluting facilities and corresponding public health impacts.”

In her decision, Justice Saunders cited the amicus brief and stated that the law “addresses serious public health and safety concerns of residents who have suffered from increased air pollution emanating from the many trucks traveling to and from the overburdened transfer stations in their neighborhoods.”

The First Department affirmed Justice Saunders’ ruling, based on her “well-reasoned and thoughtful analysis.” The appeals court found that the city conducted “an appropriate environmental review” in line with state requirements, that “the law was not preempted by state law” and “decided the forced waste capacity reductions do not violate any constitutional rights of petitioner transfer station owners.”

The law led to a reduction of more than 10,000 tons of permitted capacity through Sept. 30, with the greatest reductions occurring in one northern Brooklyn district, according to a recent report from the city’s Department of Sanitation.

Michael Salzman, Ted Mayer and Erin Pamukcu worked on this matter.

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