
Hughes Hubbard & Reed

Firm Helps Community Groups Defend NYC's Waste Equity Law

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October 18, 2019 — Hughes Hubbard played a key role in successfully defending New York City's "waste equity law" against a challenge from the waste industry in New York state 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 Oct. 3, New York Supreme Court Justice Verna Saunders dismissed a lawsuit filed by a business coalition, ruling that the petitioners did not prove that the law was arbitrary, capricious or made in violation of lawful procedure.

"Community members are elated because this is the first big win that they've had in decades of advocacy," said Melissa Iachan, a senior staff attorney for environmental justice at NYLPI. "It's a huge and significant victory, especially given the politics that surrounded this campaign."

NYLPI worked with the community groups for years to lobby for passage of the law by the New York City Council, which finally 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, and 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, filed suit 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, the NYLPI joined forces with HHR to file an amicus brief to elevate the community voices who will benefit from this law. The community groups include the New York City Environmental Justice Alliance, O.U.T.R.A.G.E., International Brotherhood of Teamsters Local 816 and Cleanup North Brooklyn.

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, 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."

Justice Saunders found that the association's claims were apparently motivated by anticipation of its members' own potential financial losses. "[W]hile economic loss is a tangible concern...the loss of health, well-being, and life of the public affected by these overburdened transfer stations must be of paramount concern," she wrote, adding that the law's mandates "are rational and demonstrate a reasonable basis for its provisions."

Michael Salzman, Ted Mayer and Olivia Bensinger worked on this matter.

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