Solid Waste Removal Service/Temporary Waste Projects: Arkansas Supreme Court Addresses Whether City of Holiday Island Can Exclude Supplemental Waste Management Services

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The Supreme Court of Arkansas ("SCT") addressed in a December 4th Opinion an issue involving a municipality's authority to exclude other waste management providers. *See 2025 Ark. 194*.

The question considered is whether the Arkansas Solid Waste Management Act ("Act") provides the municipality the ability to select a waste provider and exclude all other providers.

Steven Hendrick and X-Dumpsters (collectively, "Plaintiffs") filed a Complaint in Carroll County, Arkansas Circuit Court against the City of Holiday Island, Arkansas alleging a violation of civil rights under the Arkansas Constitution. *See Case NO. 08WCV-23-85.*

The Complaint alleged that an ordinance adopted by the Holiday Island City Council violates the Arkansas Constitution's prohibition on monopolies and guarantees Plaintiffs' due process.

The Plaintiffs' business is described as delivering portable dumpsters to job sites for individuals to dispose of construction or other waste. The business is stated to be licensed under the Solid Waste Hauler Licensing Program of the Carroll County Solid Waste District to collect and dispose of solid waste in Carroll County. Individuals rent the dumpsters to be filled and subsequently picked up by Plaintiffs within 10 days unless otherwise agreed upon.

The Complaint alleged that Ordinance 202-004, which was adopted by the Holiday Island City Council, requires all residents and businesses within the City to contract with a selected entity for the collection of solid waste in Holiday Island. Further, the Ordinance authorizes the City Council to award an exclusive franchise for the collection of solid waste.

Definitions are provided for a number of items such as:

- Solid waste.
- Yard waste.
- Extraordinary materials.
- Hazardous materials.

- Excluded solid waste.

The selected contractor is the Carroll County Solid Waste District.

The Complaint alleged harm to:

- Plaintiff Steven Hendrick and X-Dumpsters.
- Citizens of Holiday Island.

The Complaint alleged that:

- There is no legitimate basis for the exclusive monopoly granted to Carroll County Waste Management District.
- Violation of the Arkansas Constitution's prohibition against monopolies.
- Violation of the Arkansas Constitution's guarantee of due process.
- Violation of the Arkansas Constitution's guarantee of the fundamental of life, liberty, and property.

The SCT noted that Holiday Island argued that the Act provides the power to select a municipal waste provider and exclude all other providers. The Carroll County Circuit Court agreed with Holiday Island and dismissed the Plaintiffs' Complaint.

The SCT framed the issue as whether:

… the General Assembly has authorized Holiday Island's actions – and only if it has to do what we need to decide the broader Constitutional question about whether Holiday Island's actions violates the prohibition on monopolies.

Holiday Island argued that the Act provides it the power to select a single waste-removal provider and bar anyone from providing any kind of solid-waste-removal services.

The SCT states that nothing in the Act states that a municipality opting to contract with a single provider can bar City residents from using other providers to collect solid waste. It is interpreted to simply permit municipalities to contract with one or more contractors capable of collecting and disposing of the City's solid waste.

The SCT interprets the Act as merely requiring:

… the city to ensure a trash collection, and no one suggests that the existence of supplemental providers, like X-Dumpsters, prevents the city from doing that.

Therefore, the SCT rejects Holiday Island's argument that Section 8-6-211 of the Act authorizes it to bar alternative supplemental solid-waste-removal providers.

The City is held to have lacked the statutory authority to enact the portion of the Ordinance barring City residents from contracting with X-Dumpsters or to provide solid-waste-removal services. The SCT does not reach the question of whether such an ordinance would violate the Constitution's prohibition on monopolies.

A copy of the Opinion can be found here.