

ORIGINAL

In the
Supreme Court of Ohio

RUMPKE SANITARY LANDFILL,
INC., et al.,

Plaintiffs-Appellees

v.

COLERAIN TOWNSHIP, OHIO,
et al.,

Defendants-Appellants

Case No.: 2011-0181

On Appeal from the Hamilton County
Court of Appeals, First Appellate District

Court of Appeals Case No.: C-090223

REPLY BRIEF OF *AMICUS CURIAE*, STATE OF OHIO
IN SUPPORT OF DEFENDANTS-APPELLANTS

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The statutory and regulatory framework governing solid waste facilities in Ohio requires the distinct but harmonious roles of both State and local government. Despite this long-standing and collaborative approach, Rumpke argues that local government regulation of the *expansion* of a solid waste facility is needless and “all necessary site review can be performed by OEPA.” Br. at 17-18. Rumpke is wrong.

The cooperative approach—and the role of local governments—is vital not only for the initial siting, licensing, and construction of solid waste facilities, but equally so for any expansion of those facilities. The same local concerns that arise during the initial siting and licensing of a facility—such as infrastructure and safety impacts—often arise in connection with any proposed expansion of a landfill. Examples of these impacts include increased traffic and stress on local roads, expanded devaluation of surrounding property, and interference with local and regional land use planning. And as with initial siting considerations, local governments are best situated to identify and evaluate these impacts and to use zoning regulations, among other tools, to address the concerns connected to an expansion.

Further, although Rumpke correctly points out that the Ohio EPA has the authority to consider local socio-economic factors, it does not have the expertise to do so and, under the cooperative scheme contemplated by Ohio law, the Ohio EPA has deferred to local governments to make those evaluations.

In short, whether it is the initial licensing and construction of a solid waste facility, or the expansion of an existing one, the need for both State and local regulation to protect the health, safety, and welfare of Ohio citizens is the same. Accordingly, this Court should reverse the decision below and rule that the licensing, construction, operation, and expansion of solid waste facilities allows—and is best managed with—both State and local oversight.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Brief of Amicus Curiae State of Ohio was sent via electronic and U.S. mail this 20th day of December, 2011 on:

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