



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



September 11, 2003

Ms. Margaret J. Hall
Solid Waste Manager
Town of Branford
Solid Waste Management Commission
P.O. Box 150
Branford, CT 06405

Re: Acquisition of property adjacent to the Branford Landfill

Dear Ms. Hall:

The Bureau of Waste Management's Waste Engineering and Enforcement Division (WEED) has completed the review of your recent correspondence (i.e., e-mail dated August 28, 2003) regarding the acquisition of property adjacent to the Branford Landfill. As outlined in your e-mail, acquiring the neighboring property would provide an additional buffer to the landfill from surrounding land uses and also give the town discretion in developing the property.

As you are aware, landfills can present aesthetic, environmental and public health concerns to the community in which they are located. Compounding these concerns is an increase in property development encroaching on the existing landfill, which may result in incompatible uses. The Department strongly recommends that all municipalities assess the land uses adjacent to landfills to determine if they are compatible and make every effort to establish an appropriate buffer zone in order to mitigate impacts the landfill may have on adjacent properties.

If you have any questions regarding this letter please contact me at (860) 424-3313.

Sincerely,

David K. McKeegan
Environmental Analyst III
Waste Engineering and Enforcement Division
Bureau of Waste Management

DKM:dm

-----Original Message-----

From: Peg Hall [mailto:PHall@Branford-CT.gov]
Sent: Thursday, August 28, 2003 7:15 PM
To: David McKeegan
Subject: eminent domain

Dear David,

As we discussed, the Town of Branford is delighted that you are supportive of the general idea of the Town purchasing additional land around the landfill. The language of the resolution from the Board of Finance, now also approved by the Representative Town Meeting is to appropriate money "for costs related to the acquisition, through negotiated purchase or through the exercise of the Town's power of eminent domain, of the 77 acre parcel of land known as 48-86 Tabor Drive, now or formerly owned by Frank Perrotti, Jr. and Thomas Santa Barbara et. al., for municipal purposes including but not limited to investigation and remediation of environmental contamination, and possible development of playing fields..."

What I believe you expressed to me is that land use and landfills are often in conflict, and that additional buffers are a good thing, and that since the Town needs to "own and control the [leachate] plume", that one of the ways to go about that is to purchase the land, through eminent domain or otherwise. I note that at least as far back as 1985, DEP was told in a study done by Fuss & O'Neill for Superior Landfill Management, Inc., which was owned by Tom Santa Barbara and Frank Perrotti, that "to the north [of the landfill] future development could be at risk" regarding decomposition gases, and the maps from the same document show the projected path of groundwater going through the 77 acres Tabor Drive property. Since Tom & Frank purchased the land in about 1991, while they were still running the landfill, they surely were aware even back then that the landfill property was projected to contaminate the property they were purchasing, and possibly already had. Even now, since we don't own it, we don't know the extent of the plume, but now or in the future it will probably go under that property.

Neighbors often used to worry that it was the intention of the property owners to try and turn the whole 77 acres into a regional bulky waste landfill. Since the Tabor Drive property is zoned General Industrial, I had been assured some years back, and had passed those assurances on to the neighbors, that any Industrial use would have to go for a public hearing, and that any change of zoning would have to go for a public hearing, so they would be informed of any plans; the DEP wouldn't allow it as a bulky waste landfill because of groundwater regulations, and that only uses compatible with the site and its proximity to the landfill would be allowed.

When residential use was proposed, the Town's concern became not only with the site's current condition, from dumping that may have occurred there, and from any landfill impacts, but with the condition of the Tabor Drive property as it may evolve over time and the ramifications of putting residential units on that property in light of the risk. Our concern is both with the risk to the people who may live there, but also with the substantially increased liability to the Town related to

landfill claims and to claims that the Town should not have condoned residential use of the site. We are very aware of claims against Southington, Hamden and Litchfield, associated with landfills and adjacent uses.

You also may be aware, a prospective developer of the site is opposing our acquisition by condemnation and continues to seek approval for a residential development.

The First Selectman of the Town would very much appreciate your written comments on the Town's plan to acquire the property by eminent domain under these circumstances. It is my understanding that the DEP favors acquisition of contaminated property by a possibly responsible party (there may be several, of course) as a means of addressing adverse environmental conditions. By taking control of the property, and acting proactively while there is one property owner instead of literally hundreds, the Town can limit use of the property to that compatible with the property's ongoing condition. We'd be able, in an unfettered fashion, to investigate, monitor, and (if necessary) remediate the site and thereby limit any health risks of exposure to its residents. Only the Town, acting for the Public Good has the interest in doing this to the fullest extent, since the Town (and the landfill) will still be here for generations to come, after all developers are long gone. Controlling the site has the added benefit to the Town of limiting the Town's exposure to third parties, including (but not exclusively) claims by prospective residential users. I would think the DEP would consider this to be not only a sensible approach, but a responsible and, indeed, refreshing approach. Our Board of Selectmen, Board of Finance, and Representative Town Meeting have all voted unanimously to acquire the site.

Could you get us a letter, signed by yourself, and hopefully someone higher in the policy level of the Waste or Water Bureau stating DEP's support for our trying to own the land above and near the path of the leachate plume - current or future - , and of migrating gases? Since digging basements may affect such future paths, the Town could limit the uses of the property to those, such as ball fields or other municipal uses, which are environmentally compatible with the proximity to the landfill.

Thank you in advance for taking the time to respond.

Peg

Peg Hall
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