

In the Matter of the Application
of the City of New York Department of
Sanitation for a Solid Waste Management
Permit pursuant to Environmental
Conservation Law article 27 (Spring
Creek Yard Waste Composting Facility)

RULING

September 1, 2006

DEC Application No. 2-6105-00666/00001

The August 30, 2004 ruling on issues and party status in the above hearing granted amicus party status to the Municipal Art Society of New York, Inc. and New Yorkers for Parks, participating together ("Amici"). On July 17, 2006, Amanda Hiller, Esq. wrote to me on behalf of the Amici, requesting a formal ruling on the party status of the Amici in view of the fact that neither issue proposed in their petition for party status remains for adjudication in the hearing. In my July 20, 2006 memorandum, I notified the parties that any responses to this request would need to be mailed on or before July 27, 2006. No such responses were submitted.

In their March 24, 2004 petition for party status, the Amici proposed two issues: (1) whether the proposed project is an alienation of parkland for which legislative approval is needed; and (2) whether the proposed project complies with local zoning. The August 30, 2004 issues ruling identified an issue for adjudication concerning alienation of parkland (Ruling, at 10-17) but found no adjudicable issue concerning zoning (Ruling, at 17-19). Following submission of appeals, the June 14, 2006 Interim Decision of the Executive Deputy Commissioner reversed the ruling on alienation of parkland and upheld the ruling on zoning (Interim Decision, at 9-12 and 7-9, respectively). Consequently, neither one of the issues proposed by the Amici would be the subject of testimony or argument in this hearing.

The March 24, 2004 petition of the Amici noted that other parties might raise issues in addition to the two proposed by the Amici. The petition stated that the Amici did not chose to address other issues at that time, but asked to preserve the right to address such issues in future briefings (Petition, at 3). On October 28, 2004, the Amici submitted a brief in reply to appeals of the issues ruling, in which they argued that alienation of parkland should be an issue for adjudication, but did not discuss other proposed issues. The Amici have not indicated that they wish to submit a brief on any issue that was raised by other parties and that currently remains for

adjudication following the issues ruling and the interim decision.

Amicus party status, as defined in the Department's permit hearing procedures, is granted to "a person who is not otherwise eligible for party status but who is allowed to introduce written argument upon one or more specific issues" (6 NYCRR 624.2(c)). A ruling to grant amicus party status must be based upon, among other things, "a finding that the petitioner has identified a legal or policy issue which needs to be resolved by the hearing" (6 NYCRR 624.5(d)(2)(ii)). Now that no issues on which the Amici propose to present arguments remain to be resolved in this hearing, the Amici no longer meet this requirement for amicus party status. This party's address will be removed from the service list after the time for seeking leave to file an expedited appeal of this ruling has expired (see 6 NYCRR 624.8(d) and 624.6(e)). Because this ruling is being sent by ordinary mail, the deadline for seeking leave to file an expedited appeal is ten days after the date of the ruling (6 NYCRR 624.6(b)(2)(i)).

Ruling: The Municipal Art Society of New York, Inc. and New Yorkers for Parks are no longer an amicus party in this hearing.

Albany, New York
September 1, 2006

_____/s/_____
Susan J. DuBois
Administrative Law Judge

To: Persons on 8/29/06 service list