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Legal Alerts

SkyCorp Ltd v. King County: Washington Appellate Court Ruling Affirms County's Authority in Waste Regulation

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The Washington Supreme Court recently denied review of a key decision from the Washington Court of Appeals, Division II, upholding the authority of local governments to regulate solid waste generated and collected within their local jurisdictions. *SkyCorp v. King County*, 29 Wn.App.2d 832, 543 P.3d 223 (2024), *review denied*, 551 P.3d 443. The case concerned the constitutionality of King County's flow control ordinance and its application to solid waste haulers who violate the ordinance by disposing of construction and demolition solid waste generated within King County at non-designated disposal facilities.

Case background

King County's flow control ordinance, like many such ordinances in Washington cities and counties, requires that anyone who generates, handles or collects mixed or nonrecyclable construction and demolition solid waste within the County dispose of such waste in County-designated facilities. The County designated facilities in King, Pierce and Snohomish counties for this purpose. SkyCorp violated the Code by disposing of waste generated within the County at a non-designated facility in Yakima County. In response, the County imposed a $100 fine upon SkyCorp. In the lawsuit challenging the fine in Pierce County Superior Court, SkyCorp argued that King County's flow control ordinance was an unconstitutional exercise of the County's local police power and violated SkyCorp's claimed-constitutional right to freely dispose of solid waste. The Pierce County Superior Court rejected SkyCorp's arguments and granted the County's motion for summary judgment. SkyCorp appealed the superior court ruling.

Outcome of appeal

On February 13, 2024, the Court of Appeals issued its published opinion affirming the trial court's decision on two grounds. First, the Court of Appeals affirmed that the County's flow control ordinance falls squarely within the County's police power-a power expressly granted to local governments in the Washington Constitution-because it regulates solid waste generally and collected locally within King County. Second, the Court of Appeals affirmed that the County's flow control ordinance does not violate the privileges and immunities clause of the Washington Constitution because SkyCorp has no constitutionally protected right to freely dispose of solid waste in Washington.

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SkyCorp's petition for review by the Washington Supreme Court was denied on July 10, 2024. SkyCorp's first challenge to the County was in federal court and was rejected by the district court and the 9th Circuit Court of Appeals. *SkyCorp v. King County*, 859 Fed.Appx. 780 (Sept. 22, 2021).

What this means

This significant precedent reaffirms a strong constitutional foundation for local flow control ordinances and responsible waste management practices within the framework of local regulations in Washington.

Foster Garvey has extensive experience assisting municipal clients to address wide-ranging solid waste issues throughout Washington, including challenges to local solid waste regulations, long-term solid waste contract disputes, and enforcement actions. We represented King County in an earlier case challenging following flow control, *Rabanco v. King County*, 125 Wn.App. 794, 106 P.3d 802 (2005), and represent many counties in addressing similar issues. For more information about our solid waste capabilities and experience, contact Jay Donovan, Steve Dijulio or Lee Marchisio.

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