

Waste Transfer Station: Indiana Appellate Court Addresses Whether Operation in Heavy Industrial Zone is Permissible Use



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The Indiana Court of Appeals (“Court” in a November 4th Opinion addressed a zoning issue involving a waste transfer station. See *Monster Trash, Inc. v. Owen County Council*, 2020 WL 6479601.

The question addressed was whether a waste transfer station was permitted in a Heavy Industrial Zone.

Monster Trash, Inc. (“MTI”) proposed operation of a solid waste transfer station in Owen County, Indiana (“County”). The County opposed operation of the waste transfer station arguing it was not a permitted activity in a Heavy Industrial Zone.

Section 3.3 of the Owen County zoning ordinance provides in part:

3.3 - Permitted Uses In Zones

[...]

2. Heavy:

- a. Arsenal
- b. Central mixing plant for mortar, plaster, concrete, paving material, or asphalt
- c. Dehydration plant
- d. Cement lime ingredient, lime, gypsum and plaster
- e. Petroleum refinery and distillation
- f. Smelting of ore or metal
- g. Wholesale or bulk storage of gasoline or other petroleum products
- h. Railroad storage yards or shops
- i. Sanitary landfills, reduction or incineration of trash, garbage, offal or dead animals
- j. Fat rendering
- k. Manufacture of acid, alcohol, ammonia, bleaching powder, celluloid, explosives, gas, glue, pyroxylin, or nitrocellulose

I. Other uses in Permitted Land Use Table (Emphasis Added)

The County argued that the phrase “operating a waste transfer station” is not listed in Section 3.3. As a result, it argued that this was not a permitted use.

MTI responded that activities of a waste transfer station are encompassed by a phrase in 3.3(i) “reduction or incineration of trash, garbage . . .”. The activities of a waste transfer station are stated to include these activities and, therefore, constitute a permitted use by 3.3(i).

The Court agrees with MTI, stating that the express language of the Ordinance encompasses the referenced activity. It parses the definitions of “reduce” in Webster’s Dictionary and references a fact sheet published by the Indiana Department of Environmental Management to conclude:

. . . a reasonable and fair description of a waste transfer station, then, is that it is a facility in which waste is drawn together (from collection vehicles to transport vehicles), caused to converge (again, from collection vehicles to transport vehicles), or diminished in extent (collecting waste from homes and businesses and concentrating it at the facility), activities that all fit squarely within the Webster's definition of “reduce,” one of the uses listed in Section 3.3(i) of the Ordinance.

As a result, even though a waste transfer station may not be reducing waste by compaction or incineration, the Court concludes its activities qualify as a permitted use.

A copy of the Opinion can be downloaded [here](#).