

Landfill Siting

The population of Clifton County is 20% African American, 5% Native American, and 75% white. To serve the disposal needs of the county, the Clifton County Planning and Zoning Commission has approved the construction and operation of three private landfills since 1960. The population within 5 miles of each of the landfills was between 65% - 85% African American at the time the landfills were sited.

Two of the three landfills in the county will be forced to close because they cannot comply with stringent regulations that the State has adopted to comply with the Federal regulations for municipal waste landfills. In order to provide for the disposal needs of its citizens, the County has decided to construct and operate a county-owned landfill.

The County explored various sites for the proposed landfill and held a public meeting to determine whether the County should purchase a specific tract of land ("the Ivory site") for the landfill. Although the County was not required to do so by law, as a general rule, it held public meetings whenever it intended to enter into a contract to purchase or lease property and it determined that the contract might be controversial. The County retained a contractor to conduct scientific tests of the site to determine whether it was suitable for a landfill, and the test results confirmed the county's belief that the site was ideally suited, from an environmental standpoint, for a landfill. The population within 5 miles of the Ivory site is 70% white and 30% African American. Neighboring residents appeared at the public meeting and expressed their opposition to the development of the landfill on the grounds that it would reduce the property values of their homes. Several residents formed a citizens action group which promised to take every possible action (from litigation to a campaign to recall the county supervisors) to prevent the siting of the landfill at the Ivory site.

The following week, the County supervisors voted to reject the Ivory site as the proposed landfill site, and to enter into a contract with Waste Management Incorporated (WMI) to lease a separate parcel of property owned by the County, so that WMI could construct and operate a landfill on the property for the county. The property is located in a neighborhood that is 75% African American. The County did not hold a public meeting prior to the vote, and did not conduct any scientific studies of the site prior to the vote. However, the County was not required by law to take either of those actions, and it complied with all of the procedures and substantive criteria for choosing the landfill site required by law. Instead of conducting their own studies of the site, they relied on the representations of Waste Management, Inc., that it was familiar with the site and had found it to be suitable for development of the landfill. No change in zoning will be necessary to operate the landfill on the site.

A group of neighbors of the proposed site form a citizens group and file a lawsuit against the County, alleging that the County has violated its constitutional guarantee to equal protection under the law. What is the basis for their argument? How will the County respond?