

ANNUAL REPORT OF THE WESTCHESTER COUNTY  
SOLID WASTE COMMISSION  
FOR 2021

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THOMAS FRENCH, CHAIRMAN  
KEN JENKINS, DEPUTY COUNTY EXECUTIVE  
JAMES MAISANO, DIRECTOR OF CONSUMER PROTECTION  
VINCENT KOPICKI, COMMISSIONER OF ENVIRONMENTAL FACILITIES  
THOMAS GLEASON, COMMISSIONER OF PUBLIC SAFETY  
ANN MARIE BERG, COMMISSIONER OF FINANCE

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WESTCHESTER COUNTY  
BOARD OF LEGISLATORS

*Peri Alyse Kadanoff, Esq.*  
EXECUTIVE DIRECTOR

PREPARED FOR HON. GEORGE LATIMER  
WESTCHESTER COUNTY EXECUTIVE,  
AND  
THE WESTCHESTER COUNTY  
BOARD OF LEGISLATORS

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## INTRODUCTION

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In August 1999, the Westchester County Board of Legislators enacted and County Executive Andrew J. Spano signed into law "The Westchester County Solid Waste and Recyclables Collection Licensing Law" ("Chapter 826-a"). Chapter 826-a was enacted following disclosures made during a series of legislative hearings that the solid Waste and Recyclables collection industries in Westchester County were permeated and dominated by organized crime. The hearings revealed that organized crime-controlled cartels produced anti-competitive effects in the industry including, but not limited to, price-fixing; the prevention of new entry into the industry; the existence of unconscionable customer contract terms; and the incidence of corruption. Chapter 826-a was enacted in an attempt to address these problems, with the goals of eliminating the influence of organized crime in the Solid Waste and Recyclables collection industries; ensuring that only individuals of suitable good character, honesty and integrity are licensed to operate within the Solid Waste and Recyclables collection industries; and increasing competition.

The Westchester County Solid Waste Commission hereby submits its Annual Report for 2021.

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## MISSION STATEMENT OF THE WESTCHESTER COUNTY SOLID WASTE COMMISSION

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The mission of the Westchester County Solid Waste Commission is to promote the general health, welfare, and safety of the citizens of Westchester County; and to seek to eliminate the influence of Organized Crime, people engaged in fraud, and other bad actors in the solid waste and recyclables hauling industries; ensuring that only individuals and companies of good character, honesty and integrity receive and maintain licenses to operate in the solid waste and recyclables hauling industries; increasing competition among haulers and enhancing consumer choice; and ensuring that solid waste generated within or brought into Westchester County is disposed of or recycled in an environmentally safe manner by assisting in the implementation of the County's Solid Waste Management Plan.

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## DEPARTMENT RESPONSIBILITIES

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- A. To perform background checks on all Applicants and principals seeking a license to operate in the Solid Waste and Recyclables hauling industry in Westchester County so as to evaluate their good character, honesty and integrity.
- B. To issue licenses for the performance of activities for which a license is required by Chapter 826-a.
- C. To ensure that only licensed carters haul Solid Waste and Recyclables within Westchester County, and that licensed carters use only trucks registered with the Solid Waste Commission.
- D. To ensure that only entities licensed by the Solid Waste Commission dump Solid Waste and Recyclables at transfer stations located in Westchester County.
- E. To investigate all complaints against haulers that occur within Westchester County.
- F. To encourage entry into the industry and encourage competition within the industry in Westchester County.

- G. To inform the public of its rights under the Westchester County Solid Waste and Recyclables Collection Licensing Law.
- H. To assist the Department of Public Safety as it investigates possible criminal activity related to the Solid Waste and Recyclables hauling industries in Westchester County.

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### SOLID WASTE COMMISSION LICENSING CATAGORIES

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The Solid Waste Commission issues licenses by the type of waste a carter expects to haul. These licenses are:

Class A: for a hauler that hauls any type of waste, including municipal Solid Waste, Construction and Demolition Debris, Recyclables, garden and yard waste and Scrap.

Class B: for a hauler that handles SOLELY recyclables.

Class C: for a hauler that handles construction and demolition debris. There are two types of Class C licenses:

Class C-1: for a business that generates construction and demolition debris; and which, incidental to such business, hauls the construction and demolition debris itself.

Class C-2: for a carter that hauls construction and demolition debris generated by others.

Class D: for a carter that hauls garden and yard waste.

Class E: for a business that exclusively collects scrap for sale to a Recyclables Broker and which uses no more than one vehicle for collection and transportation of such materials.

Class F: for a hauler who exclusively collect, store, transport, transfer, process or dispose of food waste, solely on behalf of the County and/or is local municipalities. Food waste means all food-based putrescible materials or substances that are discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection.

The Commission also licenses Solid Waste Brokers, which are business that, for a fee, broker agreements between commercial establishments and haulers, or evaluate the waste generated by commercial establishments in order to recommend cost efficient means of waste disposal or other changes in related business practices.

During 2021 the Commission issued 63 new Permits to operate and 38 Permits were converted to Licenses. This number appears lower than in previous years because New Permits and Permits converted to Licenses are now separated and also License Renewals are not included. The Commission, in fact issued almost twice as many new Permits to operate than in previous years.

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## INSPECTIONS

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During 2021, the Commission's inspectors conducted investigations throughout Westchester County and submitted their findings, including possible violations, to the Executive Director. As a result of their efforts, unlicensed haulers either applied for Commission licenses or chose to cease operating with Westchester County. Further, as a result of Commission inspections and related enforcement actions, companies that used unregistered trucks to haul solid waste registered their trucks with the Commission and paid the required registration fees, or ceased to use them in the County.

### **Transfer Stations Records:**

On a monthly basis, the Commission requires transfer station operators to supply lists of companies that dumped waste or recyclables at their facilities. The Commission's staff reviews these records to identify companies that are not licensed by the Commission, then determines whether they may be exempt from Commission licensing requirements (i.e. if they are licensed by the Department or Consumer Protection as Home Improvement Contractors). If such companies are not exempt, the inspectors obtain dumping histories for them from the transfer station operator, review the records, and if appropriate, organize the information so that administrative charges may be authorized by the Commission. By reviewing these records during 2021, the inspectors were able to oversee transfer stations and seek unlicensed haulers even when they were not able to physically present at such facilities.

### **Customer Complaints:**

The inspectors also investigated complaints by customers about billing discrepancies, contract disputes with their haulers, and service problems. The inspectors interviewed the effected customers and haulers, inspected the sites in question, and where appropriate tried to rectify problems through informal mediation with haulers. Where serious issues were discovered, staff conducted long-term investigations into a customer's allegations. In some cases, investigative findings resulted in Commission enforcement actions or, where appropriate, referral to law enforcement authorities.

### **Contract Reviews:**

Under certain circumstance, the Commission reviews the service contracts issued to customers by licensed and permitted haulers. At times, haulers are directed to provide us with copies of their contracts so that we can ensure that their contracts comply with the requirements of Chapter 826-a, and confirm that their customers received copies of the Customer Bill of Rights. For the same reasons, when interviewing customers, the Inspectors ask to review copies of their service contracts.

### **Asset sale and purchase agreement Reviews:**

The Commission reviews the Asset Sale and Asset Purchase agreements, that licensees are required to submit before the sale of their company or a substantial portion of their company, to ensure that the balance of the industry in the County maintains a competitive balance.

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## COMPLIANCE AND HEARINGS; ENFORCEMENT; PENALTIES

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During 2021 the Commission authorized 125 violations and the Commission resolved all of those violations by hearing or plea agreement.

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### LAW ENFORCEMENT

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#### A) Municipal Enforcement

The Solid Waste Commission has a Detective assigned to its task force on a full-time permanent basis, since July 1, 2015. The Detective conducted background investigations of new applicants as well as other SWC related investigations. The Detective also issues summons and Notices to Appear for unlicensed operation and other violations.

#### B) Investigations

During 2021, the Commission continued to work with Law Enforcement and other government officials from throughout the region incident to Commission investigations, including:

- the United States Federal Bureau of Investigation in New York State
- the New York State Department of Environmental Conservation ("DEC")
- the Westchester County District Attorney
- the Westchester County Department of Public Safety
- the New York State Business Integrity Commission

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### SOLID WASTE COMMISSION BUDGET

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The Solid Waste Commission complied with its mandate to operate as a tax-levy neutral agency in 2021. The Commission's budget is based upon the Application, Background Investigation, Licensing, Registration, and Transfer Station fees charged to Applicants and Licensees, as well as the collection of fines imposed for violations.

#### Fees:

**For Class A, B, C-2 and D Licensees:** bi-annual application fees of \$350 per Applicant and \$350 per Principal; and annual licensing fees of \$1,000 per Licensee (which includes decals for one vehicle); \$1,000 per vehicle used by licensee beyond the first vehicle; \$20,000 per Transfer Station operated by a Licensee; and \$50,000 per final waste disposal site located in Westchester operated by a licensee.

**For Class L Licensees:** bi-annual application fees of \$100 per applicant and \$350 per principal; annual licensing fees of \$400 per licensee (which includes decals for one vehicle); and \$400 per vehicle used by Licensee beyond the first vehicle.

**For Class C-1 and E Licensees:** bi-annual application fee of \$45 per applicant, and annual licensing fees of \$100 per licensee (which includes decals for one vehicle) and \$100 per vehicle used by licensee beyond the first vehicle; and \$20,000 per Transfer Station operated by a licensee.

**For Solid Waste Brokers:** bi-annual fees of \$100 per applicant and \$100 per principal, and annual registration fee of \$250 per registrant.

**Recycling Credit:**

Chapter 826-a includes an incentive for the industry to recycle and re-use materials in the form of a recycling credit for transfer stations, based upon the percentage of the materials they accept that they re-use or recycle. The credit reduces the annual \$20,000 transfer station fee, and ranges from a \$500 credit when a facility recycles or re-uses from 76% to 100% of materials. A facility that recycles or re-uses between 0 to 10% of materials is not entitled to a credit.

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**EFFECTIVENESS OF CHAPTER 826-A**

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Chapter 826-a was originally enacted to prevent organized crime from again controlling Westchester County hauling industry. That goal now includes ensuring that only those with integrity and good character participate in the hauling industry in Westchester County. The goal of the County Executive and the Board of Legislators remains to prevent the recurrence of anti-competitive effects in the industry including, but not limited to, price-fixing; the prevention of new entry into the industry; the existence of unconscionable customer contract terms; and the incidence of corruption. One method utilized in this effort was the inclusion of the "Customer Bill of Rights" ("the Bill of Rights") in Chapter 826-a.

The Bill of Rights, which must be incorporated into all customer contracts, provides consumers with certain protections that cannot be waived by any agreement between a hauler and a customer. Among these protections:

- Service Contracts cannot be for longer than two years (although a municipality upon request and cause may be granted a waiver for a longer contract period).

- The hauler must give the customer at least 30 days' advance written notice for any rate increase. If the customer does not agree to such increase, he or she may terminate the contract, before the rate increase takes effect, without penalty, by giving the hauler fourteen (14) days notice.

- If a hauler proposes to subcontract a customer's business or assign the customer's contract to another hauler, the current hauler must give the customer at least 60 days' written notice. The customer may terminate the contract without penalty, by giving the hauler fourteen (14) days' notice.

- A customer can terminate a contract without penalty during the final thirty (30) days of contract.

-If, before the end of a contract, a customer's hauler offers the customer a new contract that would begin before the current contract expires, the customer can terminate the current contract without penalty during the 30-day period following such proposal.

-A hauler cannot discontinue service to a customer unless the customer is given at least 30 days advance written notice.

-If a contract provides that a hauler can automatically renew a contract without getting the customer's approval, the customer can cancel the renewed contract either during the last 30 days of the previous contract, or the first 30 days of the newly renewed contract by giving 30 days' written notice to the hauler.

-If the hauler fails to comply with the provisions of the Bill of Rights or has added provisions to the contract which impair the customer's rights as identified in the Bill of Rights, the contract can be terminated immediately and without penalty.

The Bill of rights specifically urges customers to contact the Commission if they believe that a hauler has failed to comply with the Bill of Rights, or has failed to provide the services as agreed upon under their Service Contract.

As a result of this provision, the Commission fields questions and complaints from customers and haulers. Generally, the complaints fall into four main categories: billing disputes between customers and haulers; failure to provide service/service deficiency; misleading and/or coercive sales tactics; and questions about the existence or validity of contracts.

The Commission investigates allegations that sales representatives of Licensees attempt to obtain new customers by making factual misrepresentations about their competitors or about the County's Solid Waste Commission law.

The Commission formally reviews whether haulers are complying with the service contract requirements specified in Chapter 826-a, including the incorporation of the Customer Bill of Rights into their service contracts. When the Commission's Inspectors meet with or speak to customers, they confirm that the customers have received copies of the Bill of Rights. In addition, we require licensed companies, on a random basis, to supply the Commission with copies of their service contracts for internal review.

In addition, County residents often turn to the Commission with questions about recycling and municipal collection. Whenever the Commission receives such inquiries, the residents are referred to the appropriate County or municipal agencies responsible for handling such issues.

The enactment of Chapter 826-a has attracted new haulers to apply for County hauling licenses. In 2021, we continued to receive applications from established companies throughout the region, as well as applications from several newly-founded Westchester based companies.

Since Chapter 826-a was enacted in 1999, anecdotal evidence has shown that the Commission's actions have helped keep prices down. Prices are, of course, subject to the vicissitudes of the marketplace and economic fluctuations, such as increases in licensing fees by other jurisdictions; and increases in fuel costs and rates charged by landfills and transfer stations, both within and outside the County. At times, such external economic pressures have caused haulers to increase the prices they charge their customers.

Respectfully submitted:

Westchester County  
Solid Waste Commission