

July 13, 2004

Re: Condition Number Five, All special permits to be issued solely to the E.L. Harvey Company with transferability requiring prior authorization of the Board.

Chairman Wayne Davies, Esq.
Office of Board of Appeals
Hopkinton Town Hall
18 Main Street
Hopkinton, MA 01748

Dear Chairman Davies:

I respectfully call your attention to document number 197, the [Applicant's comments on conditions contained within the third discussion draft of Decision](#), posted on the ZBA website. In this document, Attorney Stephen Richmond writes that Condition number 5 “would act to prevent construction financing” for the E L Harvey expansion project.

During a recent public meeting, Attorney Richmond further went on to say that Condition number 5, which limits the transferability of the permits to a potential new owner of the facility, would negate their ability to receive financing from two local Banks that were contacted. What Attorney Richmond failed to do, however, is inform the Board of the potential funding available through MassDevelopment, an organization that provides tax-exempt financing including financing specifically for waste recovery and recycling facilities.

In fact, the E.L Harvey Company is quite familiar with this financing source because it has previously been the beneficiary of a tax-exempt bond from MassDevelopment. Attached please find a reprint from Recycling Today titled “Massachusetts Backs E.L. Harvey Expansion”. In it, it discusses the \$3 Million tax-exempt bond that “will help fund a major expansion at the Westboro, MA recycling facility of E.L. Harvey & Sons Inc.”

It is also interesting to note, that MassDevelopment has previously issued tax-exempt financing on an even larger scale. Please see the attached August 7, 2002, press release by MassDevelopment where they announced a total of \$25 million in tax-exempt bonds. \$Ten million was allocated for improvements at Wheelabrator Technologies; a wholly owned subsidiary of Waste Management, Inc. and \$15 million was issued directly to Waste Management.

To completely neglect to mention the availability of this type of financing while arguing that Condition number 5 would negate the applicant’s ability to secure said financing certainly should raise some questions. Here again, is another example of the strong

inappropriate “advocacy role”, previously pointed out by Hopkinton resident Mr. Pablo Navarro, that Mr. Richmond continues to play during these proceedings.

If in fact the availability of financing is not a legitimate concern, then why is Attorney Richmond so aggressively fighting the Board on Condition Number 5? It is an unavoidable conclusion that he is trying to facilitate the best scenario possible for a future sale of the E.L. Harvey Company. And is the waste management industry known for large companies acquiring smaller companies? Absolutely.

Consider for example, Waste Management, the parent company to Wheelabrator, where coincidentally Attorney Richmond previously served as Senior Counsel. Waste Management is a Houston-based Fortune 200 Company with approximately \$11.5 billion in annual revenues. In the 1980s and 1990s, Waste Management successfully completed over 1,000 acquisitions. In fact, in a Raymond James Institutional Investors Conference presentation dated March 3, 2004, a stated Waste Management objective of their corporate strategy is to “Maximize shareholder value through accretive tuck-in acquisitions.” “Tuck-in” acquisitions are known in the waste management industry as acquisitions that expand services in regions where the company already has presence. Would the E.L Harvey Company qualify as a “tuck-in” acquisition by Waste Management? Unfortunately, yes.

I urge the Board to hold firm on Condition Number 5 to limit the transferability of any special permits. If not, the Town of Hopkinton may find itself with little influence and home to a facility run by one of the largest corporate waste management companies in the country. I further urge the Board to incorporate the “Findings of Fact” as conditions to any special permits issued. If the content is indeed completely factual, then the applicant should not have reason to argue against this inclusion. If there have been omissions by the applicant to the “Findings of Fact”, then now is the time for those omissions to be corrected.

Sincerely,

Denise Youngberg
34 Piccadilly Way
Westborough, MA 01581

From the MassDevelopment website:

<http://www.massdevelopment.com/press/08072002-04.aspx>

MassDevelopment Announces \$10 Million Financing for Wheelabrator Millbury, Inc. in Millbury

August 7, 2002

Millbury, Massachusetts.

Michael P. Hogan, President and CEO of MassDevelopment announced today \$10 million in tax-exempt financing for Wheelabrator Millbury, Inc. in Millbury. Bond proceeds will be used to construct a new 58,000 square foot ash house as well as new landfill cells and liners. Wheelabrator Millbury is a Massachusetts affiliate of Wheelabrator Technologies, a wholly owned subsidiary of Waste Management, Inc.

"At the same time, MassDevelopment also issued a \$15 million tax-exempt bond to their parent company, Waste Management, for upgrades to 11 of their waste disposal and landfill sites across the Commonwealth," Hogan said.

"MassDevelopment is pleased to have financed the leader in the full-service waste-to-energy industry."

"Waste Management, Inc. and its subsidiaries value our strong relationship with MassDevelopment," said Lee McCormick, Treasurer for Waste Management.

"Through this partnership we have successfully funded the development of environmentally sound waste collection, disposal, and recycling projects throughout the State. This includes our Millbury, Massachusetts waste-to-energy facility that converts solid waste into electricity. By working together we have been able to safely and economically fulfill the solid waste needs of the residents and businesses in our communities."

Wheelabrator is the leading waste to energy provider in the country using technology to convert trash into electricity. The Wheelabrator Millbury site is one of the 16 waste to energy facilities operated by Wheelabrator Technologies across the country. The company's waste burning process reduces the volume of solid waste by 90%, saving space in local landfills while providing a sustainable and economical energy system that is an alternative to fossil and nuclear fuels.

MassDevelopment works with municipalities, manufacturers, small and medium-sized business, health and elder care providers, as well as non-profit educational and cultural organizations. For more information on financing and real estate development options, businesses are encouraged to contact the agency at (800) 445-8030, or visit our web site at www.massdevelopment.com.

From "Recycling Today":

Municipal Recycling

By:

October 1998

URL:

[http://www.recyclingtoday.com/articles/article.asp?ID=3343&CatID=&SubCatID=](http://www.recyclingtoday.com/articles/article.asp?ID=3343&CatID=&SubCatID/)

City Carton Opens Cedar Rapids Facility

City Carton Company Inc., Iowa City, Iowa, has completed its third expansion in Cedar Rapids, Iowa in eleven years. The company held an open house event in late summer to show off its \$3 million, 43,000 square foot expansion project in Cedar Rapids. "We needed to expand," says City Carton president John Ockenfels. "We've added a high production machine, a state-of-the-art elevated sorting line and 10,000 square feet of inside storage," he notes.

According to Andy Ockenfels, vice president of operations, "Our new facility will be able to handle material generated by curbside collection, industrial accounts, and commercial accounts well into the future."

The company, which operates throughout eastern Iowa, purchases recyclable material from industrial, residential, and commercial accounts. Although City Carton concentrates primarily on paper grades, the company also recycles glass, metals, plastics and other recyclables.

Green Dot Idea Spreading

Germany's *grüne Punkt* (green dot) packaging and recycling program has captured the attention of both recycling advocates and critics because of its comprehensive nature. The program folds in product responsibility mandates along with the curbside collection of recyclable packaging. While the program has generated criticism from some manufacturers and citizens because of the rapid introduction of such mandates, a dramatic effect on recovery rates has clearly been demonstrated.

According to the Duales System Deutschland (DSD), Cologne, Germany—administrators of the green dot program—Germany's packaging recycling rates are global leaders in nearly every category. More than two-thirds of every packaging material type is recovered for recycling, according to the DSD. Leading the way is paper and cardboard packaging, with a 94% recovery rate, followed by glass bottles with an 85% rate. Some 91% of German households make an effort to recycle, according to the DSD.

Now, as reported in the British trade publication *Materials Recycling Weekly*, several other European nations, facing solid waste diversion goals established by the European Union, are adopting programs identical or similar to the green dot.

Spain, Belgium, Austria, Portugal and Luxembourg have adopted the system while Italy and Ireland are considering doing so. European Union nations have varying deadlines to reach the EU's packaging recycling rate targets, with some nations having until only 2001 and others facing a 2006 deadline.

Activists Urge Coke to Use Recycled Plastic

More than 20 recycling groups from throughout the U.S. have joined in a campaign to urge Coca-Cola Co., Atlanta, to use recycled content in the making of its plastic bottles. Campaign organizers want consumers to mail back empty plastic soda bottles to Coca-Cola Co. chairman Douglas Ivester with the message: "Coca-Cola Live Up to Your Promise: Take It Back and Use It Again."

Says Rick Best of the GrassRoots Recycling Network, "Coca-Cola sells more than 20 million sodas in the United States every day in plastic bottles without using even one ounce of recycled plastic." The Athens, Georgia-based organization is one of several that helped stage a news conference at the National Recycling Coalition annual convention in Albuquerque, N.M. to announce the campaign. After the news conference, seven large boxes of empty bottles were sent to chairman Ivester's attention.

According to the campaign's organizers, Coca-Cola promised in 1990 to make new plastic soft drink bottles sold in the U.S. with 25% recycled material. But in 1994, the company discontinued its involvement with plastic recycling in this country and now uses no bottles in the U.S. that are made with recycled plastic.

Massachusetts Backs E.L. Harvey Expansion

A Commonwealth of Massachusetts agency has approved a \$3 million tax-exempt bond that will help fund a major expansion at the Westboro, Mass. recycling facility of E.L. Harvey & Sons Inc.

The funds will be used to renovate space and purchase new equipment at the recycling and waste handling facility. "This new bond will allow us to grow and expand our operations," says James Harvey, CEO and treasurer of the family-owned recycling and waste management firm. "This funding will allow us to remain a strong independent company. We are now one of the largest recycling and waste handling companies in the Northeast," he adds.

The industrial development bond was approved and issued by MassDevelopment, an agency affiliated with the Massachusetts Industrial Finance Agency and the Massachusetts Government Land Bank.