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Arkansas Supreme Court
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2025-Feb-14 15:40:29
CV-24-659
26 Pages

CV-24-659

In The
ARKANSAS COURT OF APPEALS

STEVEN HEDRICK & X-DUMPSTERS APPELLANTS

v.

CITY OF HOLIDAY ISLAND APPELLEE

AN APPEAL FROM THE CARROLL COUNTY
CIRCUIT COURT

Hon. Scott Jackson, Circuit Judge
08WCV-23-85

DEFENDANT'S/APPELLEE'S BRIEF

Gabrielle Gibson
Ark. Sup. Ct. Reg. No. 2018113
P.O. Box 38
North Little Rock, AR 72115
Telephone: (501) 537-3783
Facsimile: (501) 537-7258
Email: ggibson@arml.org

R. Justin Eichmann
Ark. Sup. Ct. Reg. No. 2003145
Imogen Ryan
Ark. Sup. Ct. Reg. No. 2023172
Harrington, Miller, Keiklak, Eichmann & Brown, P.A.
4710 S. Thompson, Suite 102
Springdale, Arkansas 72764
Phone: (479) 751-6464
Facsimile: (479) 751-3715

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STATEMENT OF THE ISSUES

I. Whether the circuit court properly found that the City of Holiday Island's Ordinance No. 2022-004 did not violate the Arkansas Constitution's anti-monopoly provision.

II. Whether the City of Holiday Island's Ordinance No. 2022-004 violates the Arkansas Constitution's cumulative protections for the right to engage in a common occupation.

III. Whether Ark. Code Ann. § 8-6-211 violates the Arkansas Constitution's anti-monopoly provisions or violates the cumulative protections to engage in a common occupation, to the extent the statute permits the City of Holiday Island to enact the challenged provisions of the exclusive monopoly.

IV. Whether the City of Holiday Island is entitled to state action immunity

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JURISDICTIONAL STATEMENT

Appellants appeal the circuit court's July 25, 2024, Order, granting Appellee's motion to dismiss and dismissing this case in its entirety. (Appellants' brief, p. 6). "Generally, for an order to be appealable, it must dismiss the parties from the court, discharge them from the action, or conclude their rights to the subject matter in controversy." *Plunk v. State*, 2012 Ark. 362, 3 (2012). The July 25 Order dismissed the parties from court and concluded Appellants' rights to the subject matter in controversy by finding the City of Holiday Island lawfully enacted Ordinance 2022-004 to create a solid waste management system for the City, pursuant to Ark. Code Ann. § 8-6-211, and properly reserved the right to award an exclusive contract to the Carroll County Solid Waste District for these services. (RP 137-138).

Contrary to Appellants' contention, Appellee does not believe that this appeal involves the interpretation or construction of the Arkansas Constitution and, thus, is not required to be heard by the Supreme Court of Arkansas pursuant to Supreme Court Rule 1-2(a)(1). Supreme Court of Arkansas precedent has previously established that a municipal ordinance regulating solid waste management, pursuant to Ark. Code Ann. § 8-6-211, is constitutional and a valid exercise of a municipality's police power to protect the public health, safety, and welfare of its citizens. Thus, this case does not involve constitutional interpretation or construction. Rather, it requires the general application of law to the facts at hand.

STATEMENT OF THE CASE AND THE FACTS

On April 19, 2022, the City of Holiday Island (the "City") enacted Ordinance No. 2022-004 (hereinafter "the Ordinance"), pursuant to Ark. Code Ann. § 8-6-211, the Arkansas Solid Waste Management Act, to create a solid waste management system for the City. (RP 71-73, 137). The City found it "necessary to adopt reasonable regulations to constitute an appropriate system of collection and disposal of solid waste and recycling [] to protect the public peace, health, safety, and general welfare of the citizens of the City of Holiday Island." (RP 91). The City does not have the resources to supervise various trash haulers, and thus enacted the Ordinance to combat illegal dumping, issues with trash storage on property, and wear and tear on the roads, as well as to ensure compliance with the Arkansas statutory law and Arkansas Pollution Control and Ecology Commission rules and orders. (RP 73).

The City's Ordinance authorized it to select a licensed contractor to operate within the City and prohibited anyone other than the approved contractor to collect any solid waste. (RP 29). As such, the City reserved the right to award an exclusive contract for these services. (RP 137-138). Subsequently, the City selected the Carroll County Solid Waste District ("District") to be the exclusive provider for the collection and disposal of all solid waste within the City's limits. (RP 29, 137-138). As a result, Appellants' trash hauling business is not an approved contractor by the Holiday Island City Council.

The Ordinance defined solid waste as "all putrescible and non-putrescible waste in solid or semisolid form . . .," except for excluded solid waste. (RP 93). Excluded solid waste includes yard waste, medical waste, construction waste, and demolition waste, "*except in roll-off containers provided by [the District]*." (RP 93) (RT 22-23). Similar to the District's roll-off container service, Appellants' business consists of delivering roll-off containers to residents in Carroll County, allowing clients to fill the dumpsters according to the waste permitted under the contract and then returning a few days later to pick up the dumpster and dispose of the waste. (RP 71-72) (Appellants' brief p. 8).

On April 27, 2022, Appellants received a letter from the City's mayor, informing them that the Ordinance passed, and the District is now the sole service provider for solid waste management in the City. (RP 73, 100). On November 8, 2022, Appellants received a letter from the City's code enforcement officer, asserting that the presence of their roll-off dumpsters at a residence(s) within the City violated the Ordinance because they are not an approved contractor for collecting and disposing of solid waste within the City. (RP 74, 102).

As shown throughout this brief, the circuit court's Order, dismissing Appellants' Amended Complaint, should be affirmed.

SUMMARY OF THE ARGUMENT

As discussed in this brief, the circuit court correctly granted the City of Holiday Island's (the "City") Motion to Dismiss because binding precedent has established that (1) Ark. Code Ann. § 8-6-211 allows municipalities to enter into agreements with one entity to provide a solid waste management system for the municipality, which is a valid exercise of the municipality's police power to protect public health; and (2) a solid waste management system encompasses the "entire process of source reduction, storage, collection, transportation, processing, waste minimization, recycling, and disposal of solid wastes," which includes any supplemental services that Appellants wish to provide. See Ark. Code Ann. § 8-6-203(20); *see also*, *Smith v. City of Springdale*, 291 Ark. 63, 66, 722 S.W.2d 569, 570 (1987); *Geurin v. City of Little Rock*, 203 Ark. 103, 155 S.W.2d 719, 720 (1941).

Further, as included in Appellants' Amended Complaint, the City's Ordinance was designed to: (1) combat the rapidly growing problem of illegal dumping; (2) combat issues with citizens storing trash on their property; (3) ensure compliance with state and federal laws; (4) significantly reduce wear and tear on the City's roads from truck traffic; (5) eliminate the need for the City to supervise other haulers; and (6) protect the health, safety, and welfare of the City's residents and property values. (RP 73).

Thus, the circuit court properly held that the Ordinance is authorized by state law to assist local governments in protecting the health and safety of their citizens by providing a mechanism for removal of all solid waste. (RP 137-138). Because the Ordinance was designed to accomplish a legitimate governmental purpose of regulating solid waste to protect public health and safety, the Ordinance does not deprive Appellants of due process.

Lastly, because the Arkansas Legislature authorized the City to exclusively contract with the District to provide all the City's solid waste services, and displacing competition is a necessary and reasonable consequence of said authority, the City is entitled to state action immunity.

ARGUMENT

I. Standard of Review

A complaint is subject to dismissal, pursuant to Ark. R. Civ. P. 12(b)(6), if it fails to state facts upon which relief can be granted or if it fails to set forth facts pertaining to essential elements of a cause of action. *Perrodin v. Rooker*, 322 Ark. 117, 908 S.W.2d 85 (1995). Courts must accept the facts alleged in a complaint as true but not plaintiff's legal conclusions, theories, speculation, or statutory interpretation. *Blackburn v. Lonoke Cnty. Bd. of Election Commissioners*, 2022 Ark. 176, 6, 652 S.W.3d 574, 579 (2022). On appeal, the standard for review for the granting of a motion to dismiss is whether the circuit court abused its discretion. *Id.* at 5. For the reasons mentioned herein, the circuit court did not abuse its discretion in granting Appellees' motion to dismiss, and this Court should affirm.

II. This Court should affirm the circuit court's dismissal of Appellants' Amended Complaint because the Arkansas Legislature has affirmatively authorized the City to exclusively contract with the District for the collection and disposal of all solid waste existing within the City's limits, and the Supreme Court of Arkansas has repeatedly upheld the constitutionality of the statute.

Appellants do not challenge the City's authority to contract with the District for regularly scheduled solid waste disposal services, but rather the City's authority to prohibit Appellants from providing supplemental solid waste services, such as solid waste collection and disposal using roll-off containers. (RT 5-6). However, the

clearly established substantive law does not afford Appellants relief for said assertion.

a. The circuit court correctly found that the City lawfully contracted exclusively with the District to provide all solid waste services to citizens within the City pursuant to Ark. Code Ann. § 8-6-211.

Ark. Code. Ann. § 8-6-211(a) states, "All municipalities shall provide a solid waste management system which will adequately provide for the collection and disposal of *all* solid wastes generated or existing within the incorporated limits of the municipality. . .." Ark. Code. Ann. § 8-6-211(a) (emphasis added). Moreover, Ark. Code Ann. § 8-6-203(20) defines a solid waste management system as "the *entire* process of source reduction, storage, collection, transportation, processing, waste minimization, recycling, and disposal of solid wastes by any person engaging in the process as a business or by any municipality . . .." Ark. Code Ann. § 8-6-203(20) (emphasis added).

Not only does the plain and unambiguous language make clear that solid waste management includes all solid waste services (RT 6-7), which inherently includes supplemental services, but also, Supreme Court of Arkansas and Eighth Circuit precedent establish that the City has the power to grant an exclusive right to the District to regulate all solid waste services. *See* Ark. Code Ann. § 8-6-211(a); Ark. Code Ann. § 8-6-203(20); *Massongill v. County of Scott*, 329 Ark. 98, 104, 947 S.W.2d 749, 752 (1997); *Smith v. City of Springdale*, 291 Ark. 63, 66, 722 S.W.2d

569, 570 (1987); *Geurin v. City of Little Rock*, 203 Ark. 103, 155 S.W.2d 719, 720 (1941); *Dreyfus v. Boone*, 88 Ark. 353, 114 S.W. 718, 721 (1908); *L & H Sanitation, Inc. v. Lake City Sanitation, Inc.*, 769 F.2d 517, 522 (8th Cir. 1985); Ark. Op. Att'y Gen. No. 2006-062 (June 20, 2006); Ark. Op. Att'y Gen. No. 95-230 (September 22, 1995).

Further, Attorney General Opinion 2006-062 provides persuasive authority on this very issue. See Ark. Op. Att'y Gen. No. 2006-062 (June 20, 2006). The opinion addresses the award of an exclusive contract with a trash hauling service, and the interference by another entity in providing supplemental trash hauling services. *Id*. The interfering business entity argued that the exclusive contract, based on Ark. Code § 8-6-211(a), "serves to take a 'business right' away from [them]. *Id*. The Opinion explains that "the legislature has authorized any municipality exclusively to contract with a single private individual for the provision of recycling systems, *foreclosing any other individual from engaging in the activity*." *Id*. (emphasis added).

Accordingly, it is clearly established that the City has the right to prohibit Appellants from providing supplemental solid waste services. For these reasons, the circuit court properly found that the City has lawfully contracted solely with the District for the collection and disposal of all solid wastes – supplemental or otherwise – that are generated or existing within the City's limits.

b. The Supreme Court of Arkansas has already established that Ark. Code Ann. § 8-6-211 is constitutional.

Statutes are presumed to be constitutional, and a party that challenges one has the heavy burden of proving it to be unconstitutional. *City of Siloam Springs v. Benton County*, 350 Ark. 152, 158, 85 S.W.3d 504, 507 (2002); *see also, Quinn v. Webb Wheel Prods.,* 59 Ark. App. 272, 277, 957 S.W.2d 187, 189 (1997). "This presumption imposes upon the party against whom it is directed the burden of proving the unconstitutionality of the legislation, i.e., that the act is not rationally related to achieving any legitimate objective of state government under any reasonably conceivable state of facts." *Id.*

Stated another way, when the constitutionality of a statute is challenged, all doubts must be resolved in favor of finding it to be constitutional. *See Hamilton v. Hamilton*, 317 Ark. 572, 576, 879 S.W.2d 416, 576 (1994); *see also*, *Streight v. Ragland,* 280 Ark. 206, 213-15, 655 S.W.2d 459, 463-64 (1983). Appellants must provide facts that show how "the act is not rationally related to achieving any legitimate objective of state government under any reasonably conceivable state of facts." *City of Siloam Springs*, 350 Ark. at 158. Where constitutional construction is possible, the Court should uphold the validity of the statute under attack. *Id.*

The Supreme Court has previously upheld the constitutionality of Ark. Code Ann. § 8-6-211, finding that it "was designed to accomplish a legitimate government purpose, the protection of public health and safety, and there is a rational relationship

between the regulation of solid waste disposal and the protection of public health and safety." *Id.* ("Regulation of solid waste management is one of the traditional public health functions of local government.") (citing *Geurin v. City of Little Rock*, 203 Ark. 103, 105-106, 155 S.W.2d 719, 720 (1941)).

Further, in discussing the legislative intent of the Arkansas Solid Waste Disposal Act, the court in *L & H Sanitation, Inc.*, remarked that the "intent to displace competition can be inferred from the statutory scheme because it is a 'necessary and reasonable consequence of engaging in the authorized activity.'" *L & H Sanitation, Inc. v. Lake City Sanitation, Inc.*, 769 F.2d 517, 522 (8th Cir. 1985) (citing *Gold Cross Ambulance & Transfer v. City of Kansas*, 705 F.2d 1005, 1013 (1983)) ("Arkansas law recognizes the validity of a municipal grant of a private monopoly in solid waste disposal."); *see also, Geurin*, 203 Ark. at 105-106.

Appellants have not provided any facts whatsoever, or any binding legal authority, that would support overturning precedent that establishes there is a rational relationship between the regulation of solid waste disposal – supplemental services or not – and the protection of public health and safety. (RT 23-25). Therefore, the circuit court properly dismissed Appellants' Amended Complaint.

c. Pursuant to its authority under Ark. Code Ann. § 8-6-211, the City lawfully enacted the Ordinance to provide for the regulation of all solid waste management within the City.

An ordinance is entitled to the same presumption of validity that legislative enactments receive. *Lawrence v. Jones*, 228 Ark. 1136, 1141, 313 S.W.2d 228, 231 (1958); *Harris v. City of Little Rock*, 344 Ark. 95, 104, 40 S.W.3d 214, 220 (2001). Therefore, an ordinance is presumed constitutional, and the burden is on the challenging party to show the ordinance is invalid. *Id*. "Where the complainant offers no proof to support the claim that the ordinance is unconstitutional, our inquiry is limited 'to the face of the ordinance, with every presumption being in its favor.'" *Morningstar v. Bush*, 2011 Ark. 350, 7, 383 S.W.3d 840, 845 (2011) (quoting *Bd. of Adjustment of Fayetteville v. Osage Oil & Transp., Inc*., 258 Ark. 91, 93, 522 S.W.2d 836, 838 (1975)).

Even before the Solid Waste Management Act was passed in 1971, the Supreme Court of Arkansas held that a solid waste management ordinance was a constitutional exercise of a city's police power to protect public health. *Jarrett v. City of Marvell*, 69 Ark. App. 98, 101, 9 S.W.3d 574, 576 (2000) (citing *Geurin*, 203 Ark. at 105-106). In 1941, the Supreme Court in *Guerin v. Little Rock* upheld a municipal ordinance that provided for, in relevant part, the collection of solid waste, stating, "Questions of this kind have been before this court many times, and it has always been held that the city has the power to provide by proper ordinance for the removal, at suitable intervals, of garbage, waste, trash, and refuse." 203 Ark. 103, 155 S.W.2d 719, 720 (1941). "One of the most important fields of legislation that

may be enacted under the police power is that of regulations in the interest of public health." *Id*. The court went on to quote *Dreyfus v. Boone*, wherein it held,

> "We entertain no doubt that a city has the power to . . . grant the exclusive right to one or any limited number of persons to do the work for the rate of compensation to be fixed by the city and to be paid by the owner or occupant of the premises. The statutes of the state confer upon municipal corporations the power thus to provide for the safety, health, and welfare of the inhabitants thereof."

88 Ark. 353, 114 S.W. 718, 721 (1908). "[M]onopolies are upheld when deemed necessary in executing a duty incumbent on city authorities or the legislature for the preservation of public health." *Dreyfus*, 88 Ark. at 721. As long as the ordinance is reasonable and directed solely to legitimate regulation of the subject-matter undertaken, a municipality has the right to pass such an ordinance. *Id*.

After the Solid Waste Management Act was enacted, the Supreme Court in *Smith v. City of Springdale* unequivocally stated that "[w]ithout question a city is authorized to enter into proper exclusive contracts for sanitation services" without violating Article 2, Section 19 of the Arkansas Constitution prohibition on monopolies. 291 Ark. 63, 66, 722 S.W.2d 569, 570 (1987).

Here, Appellants conclude that prohibiting them from providing "supplemental trash services" within the City's limits is not directly related to public health and safety, which in turn, makes the Ordinance unlawful. (Appellants' Brief, p. 18). However, as stated in Appellants' Amended Complaint, the City passed the Ordinance because it was "necessary to adopt reasonable regulations to constitute an

appropriate system of collection and disposal of solid waste and recycling [] to protect the public peace, health, safety, and general welfare of the citizens of the City of Holiday Island." (RP 91). The City does not have the resources to supervise various trash haulers, and thus enacted the Ordinance to combat illegal dumping, issues with trash storage on property, and wear and tear on the roads, as well as to ensure compliance with the Arkansas statutory law and Arkansas Pollution Control and Ecology Commission rules and orders. (RP 73).

Thus, the City's purpose in enacting the Ordinance was to establish solid waste management system as required by Ark. Code Ann. § 8-6-211(a). See *Jarrett v. City of Marvell*, 69 Ark. App. 98, 101, 9 S.W.3d 574, 576 (2000) (The Arkansas Legislature has not only given the City authority to enact the Ordinance, but it has mandated it to do so.). "Ensuring adequate waste disposal resources is a valid exercise of the state's police power to protect public health." *IESI AR Corp. v. N.W. Arkansas Regl. Solid Waste Mgt. Dist.*, 433 F.3d 600, 607 (8th Cir. 2006).

In sum, the law is clearly established that there is a rational relationship between the regulation of solid waste management, which includes all solid waste services, and the protection of public health and safety. *Geurin v. City of Little Rock*, 203 Ark. 103, 105-106, 155 S.W.2d 719, 720 (1941); *Smith v. City of Springdale*, 291 Ark. 63, 66, 722 S.W.2d 569, 570 (1987); *L & H Sanitation, Inc. v. Lake City Sanitation, Inc.*, 769 F.2d 517, 522 (8th Cir. 1985). Appellants are asking this Court

to ignore the controlling precedent but provides no legal basis to do so. As such, Appellees are requesting that this Court affirm the circuit court's dismissal of their Amended Complaint.

III. Appellants have failed to allege facts that could support a finding that the City's Ordinance violates their due process rights.

Similar to Appellants' argument in this case, in *Gold Cross Ambulance & Transfer v. City of Kansas City*, plaintiffs asserted that they were denied due process because Kansas City's ambulance system deprived them from the freedom to engage in lawful business. *Gold Cross Ambulance & Transfer v. City of Kansas City*, 705 F.2d 1005, 1015 (8th Cir. 1983). However, the Eighth Circuit found that a rational basis existed for Kansas City's ordinance, which adopted a publicly controlled, single-operator ambulance system and was designed to promote the public health and safety of citizens, and the ordinance did not infringe on any fundamental constitutional right. *Id*.

"There is no absolute right to contract free of state regulation under the police power." *Id.; see also, New Motor Vehicle Board v. Orrin W. Fox Co.,* 439 U.S. 96, 106–107 (1978). Appellees "need only demonstrate that the ordinance is designed to accomplish an objective within the government's police power, and that a rational relationship existed between the ordinance's provisions and its purpose." *Id.*; *see also, Johnson v. Sunray Services, Inc.*, 306 Ark. 497, 505, 816 S.W.2d 582, 587

(1991). The court does not inquire into the actual basis of the legislation. *Streight v. Ragland*, 280 Ark. 206, 215, 655 S.W.2d 459, 464 (1983); *Johnson*, 306 Ark. at 506.

Rather, the question is a purely hypothetical one. Is there any possible "rational basis ... which demonstrates the possibility of a deliberate nexus with state objectives." *Id*. A statute passes the test if the Court can "reasonably conceive" of a lawful purpose for the statute. *Id*. The party challenging the statute has the burden of proving that the legislature acted arbitrarily or irrationally. *Usery v. Turner Elkhorn Mining Co*., 428 U.S. 1, 15 (1976). "[A]ny rationale that is a lawful purpose will void a constitutional challenge for arbitrariness." *Johnson*, 306 Ark. at 505-506.

As shown above, through the City's police power, the City's Ordinance was lawfully enacted to protect the public health, safety, and welfare of its' citizens. (RP 73). The Ordinance was designed to accomplish an objective within the government's police power, and a rational relationship existed between the Ordinance's provisions and its purpose. See *Scott v. Sioux City*, 736 F.2d 1207, 1216 (8th Cir. 1984) (citing *Gold Cross Ambulance & Transfer v. City of Kansas*, 705 F.2d 1005, 1015 (8th Cir. 1983)).

In *L & H Sanitation*, the Eighth Circuit affirmed the dismissal where the Plaintiff claimed the Ordinance in question, which awarded the exclusive right to collect waste to a competitor, "prevented them from engaging in the lawful business of solid waste disposal and as a result deprived them of a property interest in

violation of the due process and equal protection clauses of the fourteenth amendment." 769 F.2d 517, 522 (8th Cir. 1985). The court held that the ordinance "was designed to accomplish a legitimate government purpose, the protection of public health and safety, and there is a rational relationship between the regulation of solid waste disposal and the protection of public health and safety." *Id.*

Here, Appellants cite to *State ex rel. Attorney General v. Gus Blass Co*., 193 Ark. 1159, 105 S.W.2d 853 (1938) to support their assertion that they have a fundamental right to contract free of state regulation. *Gus Blass Co.* involves the issue of whether a statute that requires optometrists to have passed an exam and be licensed precludes corporations from being engaged in the practice of optometry as they "can neither stand the examination nor show qualifications to obtain a license to practice." 105 S.W.2d at 858. This case is inapposite to Appellants' allegations in this case.

Accordingly, because Appellants cannot meet the high burden to demonstrate that the Ordinance is not rationally related to achieving any legitimate objective or government interest, their argument is in direct contradiction with binding case law, and they have failed to supply any reason why precedent should not be followed. (RT 7-8). For these reasons, the circuit court properly dismissed Appellants' Amended Complaint.

IV. Because the Arkansas Legislature authorized the City to exclusively contract with the District to provide all the City's solid waste services,

and displacing competition is a necessary and reasonable consequence of the City contracting with the District exclusively, the City is entitled to state action immunity.

Notwithstanding the fact that Appellants' have failed to state a claim, the City is entitled to state action immunity. (RT 9-10). State action immunity can apply to municipalities if their anticompetitive conduct is undertaken pursuant to a state policy to displace competition with regulation or monopoly public service. *Gold Cross Ambulance & Transfer v. City of Kansas City* ,705 F.2d 1005, 1012-1013 (8th Cir. 1983).

To be entitled to state action immunity, (1) the "state legislature must have authorized the challenged municipal activity," and (2) "the legislature must have intended to displace competition." *Scott v. City of Sioux, Iowa*, 736 F.2d 1207, 1211 (8th Cir. 1984). "The state policy to dispose competition can be inferred 'if the challenged restraint is a necessary and reasonable consequence of engaging in the authorized activity.'" *Id.* (citing *Gold Cross Ambulance & Transfer,* 705 F.2d at 1013).

The Eighth Circuit has held that in passing the Arkansas Solid Waste Management Act, the "Arkansas Legislature has clearly authorized the challenged municipal activity, the regulation of solid waste and disposal." *L & H Sanitation, Inc. v. Lake City Sanitation, Inc.*, 769 F.2d 517, 521 (8th Cir. 1985). "The Arkansas Legislature in 1971 specifically required municipalities to develop solid waste

management plans and authorized municipalities to provide for solid waste disposal and to enter into agreements to provide solid waste management systems." *Id*.

Although the Arkansas Solid Waste Management Act does not expressly grant municipalities the power to grant exclusive solid waste management, "the legislative intent to displace competition can be inferred from the statutory scheme because it is a necessary and reasonable consequence of engaging in the authorized activity." *Id*. at 522 (internal quotations omitted). Thus, the Eighth Circuit has applied the state action immunity doctrine to a municipality's award of an exclusive solid waste disposal franchise. *Id*. For these reasons, the City asserts that it is entitled to state action immunity.

CONCLUSION

Appellants cannot enjoin the City from the lawful action of exercising their police powers for the public health, safety, and well-being of its residents. Thus, the circuit court correctly found that Appellants' Amended Complaint is devoid of any facts that give rise to a claim upon which relief can be granted pursuant to Ark. R. Civ. P. 8 and 12(b)(6). For all these reasons, this Court should affirm the circuit court's dismissal of Appellants' Amended Complaint.

Respectfully submitted,

GABRIELLE GIBSON
Ark. Sup. Ct. Reg. No. 2018113
P.O. Box 38
North Little Rock, AR 72115
TELEPHONE: (501) 537-3783
EMAIL: ggibson@arml.org

CERTIFICATE OF SERVICE

I, Gabrielle Gibson, hereby certify that on February 14, 2025, I filed the foregoing with the Clerk of Court, via EFLEX which will send notification to all participants listed below.

Whitfield Hyman, Ark Bar No. 2013237
King Law Group, PLLC
300 North 6th Street
Fort Smith, AR 72903
479-782-1125
hyman@arkansaslawking.co

/s/ Gabrielle Gibson
Gabrielle Gibson

CERTIFICATE OF COMPLIANCE

Case Name: Steven Hedrick et al. v. City of Holiday Island

Docket Number: CV-24-659

Title of Brief: Appellee's Brief

I have submitted and served on the opposing counsel all PDF document(s) that comply with the Rules of the Arkansas Supreme Court and the Court of Appeals. The PDF document(s) are identical to the corresponding parts of the paper document(s) from which they were created as filed with the court. The best of my knowledge, information and belief, the PDF document(s) are free of computer viruses. A copy of this certificate has been submitted with the paper copies filed with the court and has been served on all opposing parties.

This Brief complies with Administrative Order No. 19's requirement concerning confidential information. This Brief also complies with the Word-Count Limitation under Rule 4-2(d). The total word count is 5313. This Brief contains no hyperlinks, as is required under Administrative Order 21 Sec. 9.

/s/ Gabrielle Gibson
Gabrielle Gibson