

ADMINISTRATIVE ADJUDICATION HEARING

UNITED CITY OF YORKVILLE, ILLINOIS

IN RE THE MATTER OF:)
)
DONALD HAMMAN,)
Charge 2000 PMC CH.3 Sec.305.1,)
)
Ticket No. N 0007 and N 0008.)

REPORT OF PROCEEDINGS had and testimony taken at the hearing of the above-entitled matter heard before the Honorable Julie Fisher, Hearing Officer, on the 22nd of July, 2009, at 5:30 p.m. before Christine M. Vitosh, C.S.R. at 800 Game Farm Road, Council Chambers, Yorkville, Illinois.

1 PRESENT:

2 MS. JULIE FISHER, Hearing Officer;

3 MR. BILL DETTMER,
4 appeared on behalf of the City of
Yorkville, Illinois;

5 MR. GEORGE S. MUELLER,
6 appeared on behalf of Donald
Hamman.

7 - - - - -

8 ALSO PRESENT:

9 Mr. Donald Hamman,

10 Ms. Shamim Shamsuddin,

11 Ms. Lisa Pickering.

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1 (WHEREUPON, proceedings
2 were reported which were
3 not transcribed at this
4 time.)

5 ** ** **

6 MS. SHAMSUDDIN: United City of
7 Yorkville versus Donald Hamman.

8 MR. MUELLER: George Mueller appearing
9 for Donald Hamman, who is also personally present.

10 Madame Hearing Officer, we filed a
11 number of pre-hearing motions, including a rather
12 comprehensive motion to dismiss. I would also
13 make an additional motion to dismiss, which is
14 that the alleged violation is brought under the
15 Yorkville Property Maintenance Code, which is a
16 land use ordinance.

17 The rubbish, if any, on the
18 property -- although we don't know what rubbish
19 means -- would be secondary to an agricultural
20 operation, and agricultural operations according
21 to the Illinois Supreme Court are exempt from
22 local land use and zoning ordinances. Therefore,
23 for that additional reason, the City does not have
24 jurisdiction to issue this violation.

1 MS. FISHER: Okay. We're going to take
2 your motions one at time, Counselor. First I have
3 a motion to continue. Do you want to add anything
4 outside of what's in the motion?

5 MR. MUELLER: You know, I'm going to
6 rest on the motions themselves and waive further
7 argument.

8 MS. FISHER: As to the motion to
9 continue, that will be denied. As I stated, there
10 are no continuances for unpreparedness. I
11 understand, Counsel, you were on vacation, but I
12 do have a copy of the DVD with the FOIA
13 information on it, and at a simple glance, a lot
14 of the information actually predates the ordinance
15 violation that was written up. I don't see why
16 Counsel would not have time or reason to have
17 reviewed it.

18 MR. MUELLER: Madame Hearing Officer,
19 I'm also asking for a continuance in order to
20 allow subpoenas to be issued for witnesses.

21 MS. FISHER: I am going to address that
22 in your other motions --

23 MR. MUELLER: Okay.

24 MS. FISHER: -- since that is a common

1 theme. All right.

2 Motion for discovery and hearing
3 regarding the impartiality of the hearing officer,
4 do you have any other argument you wanted to make
5 on that, Counsel?

6 MR. MUELLER: Well, you are a part of
7 the enforcement mechanism in this; therefore, as a
8 hearing officer, you are now acting as a judicial
9 officer as part of an executive and enforcement
10 branch. That's inherently a violation of
11 separation of powers.

12 Additionally, I don't know under
13 what terms you keep your job, but to the extent
14 that you serve at the pleasure of the Mayor of
15 Yorkville, who has been demonstrated in our brief
16 in the Pollution Control Board case referenced in
17 the motion to have a personal animus toward
18 Mr. Hamman and, in fact, be the center of a
19 conspiracy to deprive him of his rights, anyone
20 who serves at the pleasure of the Mayor of
21 Yorkville cannot possibly be fair.

22 And just so that you understand, I'm
23 not making any personal allegation against you, I
24 don't know you and I am presuming that you are a

1 completely ethical individual.

2 What I'm saying is that you are in a
3 position where inherently as a matter of law if
4 you serve at the pleasure of someone who has a
5 demonstrated and proven animus toward the
6 defendant, you, as a matter of law, cannot be fair
7 in this case.

8 MS. FISHER: Well, before I comment on
9 that, Counselor, in your prayer for relief you
10 state defendant prays that the hearing officer
11 hearing this evidentiary hearing, if I am unable
12 to be impartial, how do you propose I conduct a
13 hearing to determine if I am impartial?

14 MR. MUELLER: You know, and that's part
15 of the problem with the ordinance here because we
16 don't have a judicial branch. We don't have a
17 circuit court that this is in, it's the prosecutor
18 acting as judge.

19 At a minimum I'd like to be able I
20 guess for purposes of this hearing to make a
21 record as to the conspiracy against Mr. Hamman, as
22 to the exact terms under which you've been
23 retained, and under which you can be released from
24 your duties.

1 MS. FISHER: Counselor, I can tell you I
2 know nothing about Mr. Hamman other than what's
3 been presented to me tonight. You are making
4 light of briefs in another case that apparently is
5 ongoing with the Pollution Control Board; I have
6 no privy to those briefs, I have not seen them,
7 other than what is available online --

8 MR. MUELLER: They are all available
9 online.

10 MS. FISHER: Well, as directed by your
11 motions, that is all that I have seen to this
12 point, and I can tell you that this motion is
13 denied based on the fact that this is the job that
14 was created by the United City of Yorkville.

15 I have no control over deeming my
16 job unconstitutional at this point in time, so if
17 you want to take that up, that's fine. You know,
18 judicial officers are appointed all the time by
19 executives.

20 I have nothing to do with Mayor
21 Burd, she does not advise me, I do not speak with
22 her. These hearings are conducted solely on my
23 accord. So that motion is denied.

24 All right. Moving on to the

1 motion -- the first motion to dismiss, which was
2 actually filed, Counsel, do you have any further
3 comment on that motion?

4 MR. MUELLER: I just have one. I'll
5 rest on the motion, but you stated for the record
6 here tonight that the City has the burden of proof
7 in this matter and I believe that's in conflict
8 with the ordinance under which we are operating
9 under, which states that the burden of proof shall
10 be on the alleged offender to refute the prima
11 facie case set forth in the verified notice of
12 violation.

13 MS. FISHER: Yes. To refute, Counselor.
14 If the prima facie case is not made, then the
15 motion is dis -- or the ordinance is dismissed.

16 MR. MUELLER: Right. But the ordinance
17 also says that the prima facie case is the written
18 notice; therefore, the burden shifts at the time
19 that the ticket is issued, and that's completely
20 unconstitutional.

21 MS. FISHER: Any other further comment?

22 MR. MUELLER: No further argument.

23 MS. FISHER: Okay. Well, I'm going to
24 address this motion since it is fairly lengthy

1 point-by-point or at least on several points.

2 First of all, under paragraph number
3 two of the motion to dismiss, Counsel, you address
4 that the ordinance is unconstitutionally vague and
5 overbroad and that rubbish is not defined.

6 First of all, Counselor, I am not
7 here to decide constitutionality of any of these
8 ordinances. That's not within my power. So I'm
9 not going to comment on constitutionality of
10 anything in this proceeding, okay?

11 Second of all, I would note for the
12 record that according to the International
13 Property Code 2000, which was adopted by the
14 United of Yorkville, rubbish is defined
15 specifically. There is a definition of rubbish.
16 I show Counsel that.

17 Furthermore, the motion to dismiss
18 comments on how much rubbish. The ordinance is
19 written as it is written. If you wish to
20 challenge that on a higher court, feel free to do
21 so, but I have to follow the ordinance as it's
22 written at this time, so I can't challenge that
23 ordinance at this time.

24 MR. MUELLER: So you are acknowledging

1 that there is no standard as to how much rubbish
2 or the duration or the presence of rubbish --

3 MS. FISHER: Counsel, what I'm saying is
4 the ordinance is written as it's written, okay,
5 and I believe that the ordinance states any amount
6 of rubbish. So we'll get to that in a minute as
7 we proceed to hearing; however, I am not
8 commenting on whether the ordinance is
9 constitutional or unconstitutional. That is not
10 my province, that is not my job, that is not my
11 power.

12 What I'm telling you is there is a
13 definition of rubbish, the ordinance is written
14 as-is, and I am required to follow the ordinance
15 as it is written today at this period in time.

16 Moving on, as to the due process
17 rights, Counsel, you referred to City of Danville
18 versus Clark, 63 Il. 2nd 408, 1976, and you
19 interpret their language to say minimally this
20 means with respect to a claimed ordinance
21 violation the municipality has the burden of
22 proving a defendant guilty beyond all reasonable
23 doubt.

24 That is not what the City of

1 Danville says. I have read the case, I have it
2 before me. It says that these proceedings are
3 civil in form and quasi criminal in character. We
4 are not finding guilt, we are finding liability,
5 and we're not required to do that beyond a
6 reasonable doubt as the court has written.

7 You comment on the right to cross
8 examination. As I stated, there is a right to
9 cross examination.

10 Furthermore, Counsel, you stated --
11 or excuse me, you cited Abrahamson versus the
12 Illinois Department of Professional Regulation
13 found at 153 Il. 2nd 76.

14 I would specifically quote from this
15 particular case -- this is found on Page 12 of my
16 print-out -- "Due process is a flexible concept
17 and requires only such procedural discretion as
18 fundamental principles of justice a particular
19 situation demands. We have held that procedural
20 due process in an administrative proceeding does
21 not require proceeding in the nature of a judicial
22 proceeding. It is settled that the charges or
23 complaint in an administrative proceeding need not
24 be drawn with the same position, refinements or

1 subtleties as a proceeding in a judicial
2 proceeding; rather, the charge of an
3 administrative proceeding may only reasonably
4 advise their client as to the charges so that he
5 or she will intelligently be able to prepare a
6 defense." I believe that has been done at this
7 juncture.

8 In paragraphs four and five of your
9 motion, Counselor, you take issue with the fine
10 situation. The fines are set out in the Code.
11 It's under Section 1310.

12 Paragraph six, you talk about
13 subpoenas and you specifically state Chapter 13
14 does not provide a mechanism by which defendant
15 could proceed with the issuance of subpoenas.
16 That is completely untrue. The Code actually does
17 say upon request, the parties or the
18 representatives, and those subpoenas are issued at
19 my discretion.

20 As to the EPA allegations and the
21 cases that are apparently ongoing in front of the
22 Pollution Control Board, it is my understanding
23 from looking at the complaint as filed that those
24 go back to 2007 and they have been ongoing for

1 quite some time.

2 The alleged violation that is before
3 me tonight and that is in question is for
4 June 3rd, 2009. That is the only date I am
5 concerned with. That is the only time I am
6 concerned with. I don't care what's going on in
7 the other courts at this point in time before
8 other boards.

9 What concerns me is June 3rd, 2009
10 and the ordinance that the United City of
11 Yorkville claims was violated at that time, so
12 that is the only question that will be answered
13 tonight.

14 As far as the subpoenas go, there
15 are extensive requests for subpoenas to Mayor
16 Burd, to the City Council and to other parties as
17 they are found out.

18 Mayor Burd and the City Council you
19 have alleged have some sort of conspiracy against
20 Mr. Hamman. I have no knowledge of that. I am
21 not going to address it. I don't have any
22 foundation for that. My only concern, as I
23 stated, is what may or may not have occurred on
24 June 3rd, 2009.

1 It's my guess at this point -- and
2 if something else comes out of that, then
3 certainly we can address that, but it is my guess
4 that there is no evidence that Mayor Burd or the
5 City Council were even present on June 3rd, 2009
6 on the property in question.

7 So as to the subpoena request, it is
8 denied. I don't believe it's appropriate and I
9 don't think it's necessary in this particular
10 proceeding.

11 So at this time, Counsel, your
12 motions are denied. Feel free to appeal those
13 orders.

14 MR. MUELLER: I'd like to, if I may,
15 just briefly respond.

16 MS. FISHER: Go right ahead.

17 MR. MUELLER: With all respect, I ask
18 you to reconsider your ruling for the following
19 reasons, without waiver of any other reasons
20 already set forth.

21 The issue with regard to the EPA
22 case that's pending and the City's case also
23 pending before the Pollution Control Board is one
24 of jurisdiction. I understand that those cases

1 don't address the June 3rd incidents, but my
2 argument is that the City does not have
3 jurisdiction to even bring this action because
4 exclusive jurisdiction is vested pursuant to the
5 Environmental Protection Act.

6 Secondly, as to the reference that
7 you cited from Abrahamson, I found that to be
8 extremely interesting because the charge itself
9 here describes the acts as rubbish on exterior of
10 property without reference to what the nature of
11 the rubbish was, how long it had been there, where
12 it was located on the property, what the density
13 of the rubbish was, we don't know whether it was a
14 mound of garbage or whether it was a piece of
15 paper and, as such, it does not advise Mr. Hamman
16 of what he did with any specificity and, frankly,
17 we have no clue as we stand before you now, and
18 it, therefore, is violative of his minimal due
19 process rights to be advised of the nature of the
20 charges against him.

21 Lastly, I would remind the hearing
22 officer that you have not ruled on the oral motion
23 to dismiss based upon the agricultural use
24 exemption.

1 MS. FISHER: I haven't gotten to that
2 yet.

3 MR. MUELLER: Okay. I'm sorry.

4 MS. FISHER: I'm doing one motion at a
5 time, as I stated.

6 MR. MUELLER: All right.

7 MS. FISHER: First of all, as quoted or
8 stated in Abrahamson, it also says that there is
9 not the required specificity as normal courtroom
10 proceedings with judicial proceedings.

11 I believe as the alleged violations
12 are stated today, there is enough information
13 there to prepare. Obviously you have written
14 several motions tonight with quite some detail, so
15 you were able to prepare to some degree,
16 Counselor, so that motion again is denied.

17 As to the jurisdiction, I did have a
18 chance to look up the EPA and the Code regarding
19 their jurisdiction. I found nothing within it
20 that says the EPA has sole jurisdiction over what
21 is alleged to have occurred on June 3rd, 2009, so,
22 Counsel, unless you have specific reference that
23 says we do not have jurisdiction here, that is
24 denied.

1 Anything else on this motion?

2 MR. MUELLER: I think I've made my
3 record.

4 MS. FISHER: Okay. Moving into the oral
5 motion to dismiss, the land use ordinance,
6 Counsel, do you have reference or information
7 regarding that?

8 MR. MUELLER: I do not have any legal
9 authority, but I know the Supreme Court has ruled
10 on the agricultural use exemption and the fact
11 that agricultural uses cannot be regulated by
12 local land use ordinances.

13 MS. FISHER: Well, Counsel, I'm sure
14 that you know your facts, but until I see
15 something in writing, that motion is denied. If
16 you wish to file a motion to reconsider with the
17 proper authorities, we would certainly consider it
18 at that time.

19 So, moving on, do you have any
20 further motions, Counselor?

21 MR. MUELLER: No further motions at this
22 time.

23 MS. FISHER: Okay. And, Counsel, is
24 your client pleading liable or not liable?

1 MR. MUELLER: Pardon me?

2 MS. FISHER: Is your client pleading
3 liable or not liable?

4 MR. MUELLER: Not guilty.

5 MS. FISHER: Not liable?

6 MR. MUELLER: If you want to call it not
7 liable, that's fine.

8 MS. FISHER: Fine. We will proceed to
9 hearing. And, Mr. Dettmer, are you proceeding for
10 the City?

11 MR. DETTMER: Yes, ma'am.

12 MS. FISHER: Please raise your right
13 hand.

14 (The witness was thereupon
15 duly sworn.)

16 MS. FISHER: Put your hand down. You
17 may proceed.

18 MR. DETTMER: We had been doing an
19 investigation which started on June 1st, '09, the
20 field notice, and then issued two tickets on
21 6-03-09. Both tickets were for rubbish at two
22 locations; one location was 9776 Sleepy Hollow,
23 the other location was 9168 Sleepy Hollow, the
24 sections of Code were recorded as 2000 Property

1 Maintenance Code, Chapter 3, Section 305.1 in both
2 cases, ma'am.

3 MS. FISHER: Okay. Do you have anything
4 further?

5 MR. DETTMER: I do have pictures that we
6 took on the 3rd, if I could approach the hearing
7 officer.

8 MS. FISHER: Sure.

9 MR. MUELLER: I would like to see copies
10 of the photographs if I may.

11 MS. FISHER: You will be allowed,
12 Counsel. I am looking at three pages of
13 photographs that would be -- appears to be ten
14 photos in total and the photos are dated 6-03-09
15 at approximately 12:10 to 12:14?

16 MR. DETTMER: Yes, ma'am.

17 MS. FISHER: Would that be p.m.?

18 MR. DETTMER: That's affirmative, ma'am.

19 MS. FISHER: You may proceed.

20 MR. DETTMER: These pictures were taken
21 of the property that show the rubbish that was
22 located. You see white areas where it was located
23 on the fields.

24 MS. FISHER: May I see that? Would you

1 please show this to Counsel?

2 MR. DETTMER: Yes. Sir?

3 (Counsel peruses.)

4 MS. FISHER: Anything further,

5 Mr. Dettmer?

6 MR. DETTMER: No, ma'am.

7 MS. FISHER: Mr. Mueller, you may

8 cross-examine.

9 MR. MUELLER: Mr. Dettmer, do you recall
10 being at the subject property on June 3rd, 2009?

11 MR. DETTMER: Yes, sir, I do.

12 MR. MUELLER: And do you remember
13 meeting personally with Don Hamman at that time?

14 MR. DETTMER: That's affirmative, sir.

15 MR. MUELLER: And do you remember
16 telling him that you had been ordered by the Mayor
17 to serve him with two citations?

18 MR. DETTMER: That's affirmative, sir.

19 MR. MUELLER: And do you remember saying
20 to him that you would not serve the citations on
21 that date because, in all fairness, you felt there
22 was no violation?

23 MR. DETTMER: That's -- do not recall
24 that conversation, sir.

1 MR. MUELLER: Okay. In fact, sir, you
2 did not serve him with the citations on June 3rd,
3 but waited instead until June 19th when you met
4 with him again to give him the citations, isn't
5 that correct?

6 MR. DETTMER: I'd have to go back and
7 look at my paper log on that, but I did go out,
8 take the pictures, prepare the reports, and then
9 we did serve them on -- sent them out on
10 July 15th, '09, at --

11 MR. MUELLER: June 15th, '09?

12 MR. DETTMER: June 15th, '09.

13 MR. MUELLER: Right?

14 MR. DETTMER: That's affirmative.

15 MR. MUELLER: Let's back up,
16 Mr. Dettmer. You go out to the property on
17 June 3rd, you've got the tickets written on that
18 date, right?

19 MR. DETTMER: No, they were not written.
20 I went back to my office to write them.

21 MR. MUELLER: Didn't you, in fact, show
22 Mr. Hamman the two tickets that I am holding up in
23 front of me on June 3rd?

24 MR. DETTMER: I would have to refer to

1 my ledger on my reports.

2 MR. MUELLER: Do you have a ledger
3 handy?

4 MR. DETTMER: That's affirmative, sir.

5 MR. MUELLER: Would you -- I would like
6 you to provide it if you could, sir. Does that
7 refresh your recollection, sir, as to when you
8 were there?

9 MR. DETTMER: That's affirmative, sir.
10 I believe I was out there on June 3rd, dealt with
11 the complaints, took the pictures, and at that
12 time I believe I gave those tickets to Mr. Hamman
13 because it doesn't show me doing any action on the
14 19th. The date on the tickets is when they would
15 appear before the hearing officer.

16 MR. MUELLER: Typically when you write a
17 ticket, do you write it in the field or at your
18 office?

19 MR. DETTMER: Either way. Sometimes I
20 write it in the field, sometimes I write it in my
21 office.

22 MR. MUELLER: Were these tickets written
23 at your office before you even went out there?

24 MR. DETTMER: That's affirmative, sir.

1 When I showed them to Mr. Hamman, I believe at
2 that time I gave them to him.

3 MR. MUELLER: So you wrote the tickets
4 before you examined the field?

5 MR. DETTMER: No. I was out, did my
6 investigation, went back to my office, wrote the
7 tickets, and then took them out.

8 MR. MUELLER: Now, you also indicated
9 that the only reason you gave Mr. Hamman the
10 tickets is because you were ordered by the Mayor
11 to do so, right?

12 MR. DETTMER: I was given an order to
13 issue tickets, that's affirmative, sir.

14 MR. MUELLER: Do you normally have
15 discretion as to whether or not tickets should be
16 issued based upon your own investigation?

17 MR. DETTMER: Yes, sir.

18 MR. MUELLER: In this case you did not
19 have that discretion; is that right?

20 MR. DETTMER: I was given an order to
21 issue them, sir.

22 MR. MUELLER: And isn't it also true
23 that you told Mr. Hamman you did not think there
24 was a violation on that day?

1 MR. DETTMER: I cannot recall that part
2 of the conversation, sir.

3 MR. MUELLER: Well, as you recall your
4 investigation, did you think there was a
5 violation?

6 MR. DETTMER: When I took pictures, they
7 were in the field showing debris and that's why I
8 issued the tickets.

9 MR. MUELLER: On June 3rd did you think
10 there was a violation?

11 MR. DETTMER: Yes, sir.

12 MR. MUELLER: Do you remember meeting
13 with Mr. Hamman on June 19th and actually giving
14 him the tickets in this matter and again telling
15 him that the Mayor had ordered you to do so?

16 MR. DETTMER: I do not have anything on
17 a date of June 19th meeting with Mr. Hamman; my
18 meeting was on the 3rd, sir, to the best of my
19 recollection.

20 MR. MUELLER: Do you remember on
21 June 19th calling Mr. Hamman at his office and
22 saying, "You can either meet me or avoid me," and
23 he chose to meet you, and the two of you met at
24 the corner of Sleepy Hollow Road and Route 71?

1 MR. DETTMER: No, sir.

2 MR. MUELLER: Now, as to these
3 photographs that you have shown here, are there
4 any identifying marks on them that would indicate
5 they are defendant's farm fields?

6 May I approach the witness?

7 MS. FISHER: You may.

8 MR. MUELLER: Are there any identifying
9 marks on them that indicate they are Mr. Hamman's
10 fields?

11 MR. DETTMER: No, there are not.

12 MR. MUELLER: And you indicate that what
13 constitutes the violation is the white matter in
14 these photographs?

15 MR. DETTMER: That's affirmative, sir.

16 MR. MUELLER: Now, you understand that
17 Mr. Hamman is in the business of land application
18 of landscape waste?

19 MR. DETTMER: That's affirmative, sir.

20 MR. MUELLER: You also understand that
21 landscape waste is delivered to his facility
22 typically in paper bags?

23 MR. DETTMER: Typically, I -- I don't
24 know typically how it's delivered.

1 MR. MUELLER: Well, sir, do you own a
2 home?

3 MR. DETTMER: Yes, sir, I do.

4 MR. MUELLER: Do you have a yard?

5 MR. DETTMER: Affirmative, sir.

6 MR. MUELLER: Do you bag the bush
7 trimmings and grass clippings ever?

8 MR. DETTMER: No, sir.

9 MR. MUELLER: Are you aware that people
10 do have to bag that separately?

11 MR. DETTMER: Yes.

12 MR. MUELLER: Are you aware that
13 landscape waste is delivered to Mr. Hamman's
14 property in those bags?

15 MR. DETTMER: There is different types
16 of bags possibly, yes.

17 MR. MUELLER: And are you aware that the
18 bags in which the material is delivered are
19 biodegradable?

20 MR. DETTMER: No, sir.

21 MR. MUELLER: Are you aware that the
22 paper in the delivery bags is an inherent part of
23 the land application process?

24 MR. DETTMER: I am not familiar with the

1 process, sir. I am not an expert in agriculture.

2 MR. MUELLER: You are aware that

3 Mr. Hamman is EPA permitted for the land

4 application landfill --

5 MR. DETTMER: Yes.

6 MR. MUELLER: -- of landscape waste?

7 MR. DETTMER: Yes.

8 MR. MUELLER: And you are aware that the

9 EPA visits and inspects him on a regular basis?

10 MR. DETTMER: Yes.

11 MR. MUELLER: Now, can you tell me

12 the -- did you -- well, let's back up.

13 Did you pick up any particular piece

14 of rubbish that is part of the offense here?

15 MR. DETTMER: I did not pick up -- I do

16 not pick up rubbish.

17 MR. MUELLER: What is the largest piece

18 of rubbish that you saw?

19 MR. DETTMER: Anywhere from four to

20 five inches, maybe up to seven, eight. There were

21 small pieces of rubbish, I picked them up in my

22 pictures.

23 MR. MUELLER: Did all the rubbish

24 consist of paper that you saw?

1 MR. DETTMER: No, sir.

2 MR. MUELLER: What other rubbish was
3 there that was depicted in the photographs?

4 MR. DETTMER: Some plastic.

5 MR. MUELLER: There were some plastic
6 depicted in the photographs. Can you show me
7 where plastic is depicted in any of these
8 photographs?

9 MR. DETTMER: In there, that's some
10 plastic right there.

11 MR. MUELLER: Can you take my pen, sir,
12 and circle the piece of plastic, or take your pen?

13 MR. DETTMER: This was plastic right
14 there.

15 MR. MUELLER: And how big a piece of
16 plastic was it?

17 MR. DETTMER: Maybe eight, ten inches.

18 MR. MUELLER: And do you know how long
19 it had been there?

20 MR. DETTMER: No, sir.

21 MR. MUELLER: So an eight to ten-inch
22 piece of plastic on 2,000 acres of farm ground
23 constitutes the offense of rubbish on the exterior
24 of property?

1 MR. DETTMER: I did not investigate
2 2,000 acres of farmland, sir. My inspections were
3 specifically to two locations if you would read on
4 my report and on my tickets.

5 MR. MUELLER: How large was the location
6 that you investigated?

7 MR. DETTMER: I don't know the size of
8 the land, sir.

9 MR. MUELLER: Now, the piece of plastic
10 that you circled, do you know how far that is off
11 the road?

12 MR. DETTMER: No, sir.

13 MR. MUELLER: Did you measure it?

14 MR. DETTMER: Negative, sir.

15 MR. MUELLER: It appears to be pretty
16 close to the edge of the road, right?

17 MR. DETTMER: Yes.

18 MR. MUELLER: Could have been fly dumped
19 by someone driving by?

20 MR. DETTMER: I don't know.

21 MR. MUELLER: Do you know what fly
22 dumping is?

23 MR. DETTMER: Affirmative, sir.

24 MR. MUELLER: That is when people just

1 throw material out of their cars?

2 MR. DETTMER: I said yes.

3 MR. MUELLER: Okay. How wide is the
4 roadway that you were on?

5 MR. DETTMER: I do not know, sir.

6 MR. MUELLER: Well, it's a two-lane
7 road, right?

8 MR. DETTMER: It's a gravel road.

9 MR. MUELLER: It's a gravel road. Be
10 about 18 feet?

11 MR. DETTMER: Could be.

12 MR. MUELLER: Township road?

13 MR. DETTMER: Could be.

14 MR. MUELLER: Are you aware that the
15 right-of-way for that road is 66 feet?

16 MR. DETTMER: No, sir, I am not. I am
17 not a civil engineer, sir.

18 MR. MUELLER: Now, do you know whether
19 this piece of plastic was in the right-of-way for
20 the road or on the property actually owned by the
21 defendant?

22 MR. DETTMER: I cannot tell you that,
23 sir.

24 MR. MUELLER: You know what a road

1 right-of-way is, don't you, sir?

2 MR. DETTMER: Yes, sir.

3 MR. MUELLER: Did you find any other
4 pieces of plastic or -- well, we'll say plastic,
5 in any of those photographs?

6 MR. DETTMER: That was the one that I do
7 remember. The rest of them are pieces of paper to
8 the best of my knowledge. We got out, took a
9 look, took the pictures, and --

10 MR. MUELLER: You said "we" got out.
11 Who were you with?

12 MR. DETTMER: I stand corrected, sir. I
13 got out.

14 MR. MUELLER: It appears that this
15 picture was -- that these pictures were actually
16 taken from inside the car based upon the black --

17 MR. DETTMER: Some of them were, that's
18 affirmative.

19 MR. MUELLER: Were any of them taken
20 outside the vehicles?

21 MR. DETTMER: Yes, sir.

22 MR. MUELLER: Which ones?

23 MR. DETTMER: This one here next to the
24 vehicle and that one.

1 MR. MUELLER: You didn't retrieve the
2 plastic bag, did you?

3 MR. DETTMER: Negative, sir, I did not.

4 MR. MUELLER: Or piece of plastic?

5 MR. DETTMER: I do not pick up garbage.

6 MR. MUELLER: And as to the paper that
7 you saw, you don't know whether those were the
8 bags that the -- or pieces of the bags that the
9 landscape waste is received in?

10 MR. DETTMER: No, sir.

11 MR. MUELLER: You don't know how long
12 any of this rubbish had been on the fields?

13 MR. DETTMER: I do not know how long it
14 was on the fields.

15 MR. MUELLER: Do you know how long any
16 of that paper had been on the fields?

17 MR. DETTMER: No, sir.

18 MR. MUELLER: Do you know how long any
19 of that -- that one piece of plastic had been on
20 the field?

21 MR. DETTMER: No, sir.

22 MR. MUELLER: And do you know how long
23 the field had been in this condition?

24 MR. DETTMER: Based upon my inspection

1 of it which was done, about a week.

2 MR. MUELLER: Well, you said that you
3 were out there June 1st --

4 MR. DETTMER: Yeah.

5 MR. MUELLER: -- so that would be two
6 days?

7 MR. DETTMER: Yeah.

8 MR. MUELLER: That's not a week, is it,
9 sir?

10 MR. DETTMER: No, sir, it's not.

11 MR. MUELLER: Was the condition on
12 June 1st the same as the condition on June 3rd?

13 MR. DETTMER: Yes.

14 MR. MUELLER: Did you see this same
15 piece of plastic on June 1st?

16 MR. DETTMER: That's the reason for
17 writing the ticket.

18 MR. MUELLER: Now, as to these
19 pictures -- and I am going to, if I may, take the
20 liberty of putting a letter on each one so that we
21 can specifically identify them, okay.

22 Now we have pictures A through J.

23 In which picture, sir, is the plastic located?

24 Would that be in picture E?

1 MR. DETTMER: Let me take a look at the
2 pictures.

3 MR. MUELLER: Why don't you take a look
4 at all of them? I marked them all. I will give
5 them back to you.

6 MR. DETTMER: Thank you. E.

7 MR. MUELLER: The plastic is in picture
8 E, the single piece of plastic?

9 MR. DETTMER: That's the plastic that I
10 found, yes.

11 MR. MUELLER: Would that be like in the
12 form of a Wal-Mart bag or something like that?

13 MR. DETTMER: It could have been in a
14 bag, I don't know.

15 MR. MUELLER: Was it a soft piece of
16 plastic or a hard piece of plastic?

17 MR. DETTMER: It appeared to be a bag
18 type of plastic.

19 MR. MUELLER: All right. Do you know if
20 it was an intact bag or a piece of bag?

21 MR. DETTMER: I did not go out and pick
22 it up, sir.

23 MR. MUELLER: As to these pictures, A
24 through I -- or I think it's J, which ones depict

1 which piece of property here? Because you've
2 written two complaints.

3 MR. DETTMER: G, H, I, and J were
4 written on -- I have to look at the address --
5 9186. C, D, E and F were written on the same
6 location.

7 MR. MUELLER: Also 9186, correct?

8 MR. DETTMER: Mm-hum.

9 MS. FISHER: Counsel, are you through
10 with your questions?

11 MR. MUELLER: I am waiting for him to
12 answer as to pictures A and B, if he knows where
13 those were taken.

14 MR. DETTMER: I am actually going
15 through the maps that I have from out there. May
16 I refer to them, ma'am?

17 MR. MUELLER: Sure.

18 MS. FISHER: That's fine.

19 MR. DETTMER: Okay. We have a map
20 showing the areas in which we investigated. As
21 coming in off of 71, it was these properties here,
22 and it would be 11, 12, 13 -- 11 and 12 is where I
23 took my pictures.

24 MR. MUELLER: I'd ask that these be

1 marked as exhibits.

2 MR. DETTMER: Sure.

3 MS. FISHER: It will be marked.

4 MR. MUELLER: You took photographs at
5 locations 11 and 12 --

6 MR. DETTMER: Yes.

7 MR. MUELLER: -- from what we will
8 call -- Can we call the photographs Yorkville
9 Group Exhibit 1 and these maps Yorkville Group
10 Exhibits 2 and 3?

11 MS. FISHER: That's fine.

12 (Yorkville Exhibits No. 1,
13 2 and 3 were marked for
14 identification.)

15 MR. DETTMER: Just a moment. I'm sorry.
16 I believe I came off of 71, pulled in. It was 9
17 and 10. I'm sorry, sir.

18 MR. MUELLER: You took photographs at
19 the locations 9 and 10 --

20 MR. DETTMER: Yes.

21 MR. MUELLER: -- okay, on Yorkville
22 Exhibit 3. What is Yorkville Exhibit 2?

23 MR. DETTMER: It's just where we marked
24 X's showing where some work needed to be done.

1 These are the two, we had notes in here.

2 MR. MUELLER: What do you mean work that
3 needed to be done?

4 MR. DETTMER: Cleaning, you know.

5 MR. MUELLER: When was this exhibit
6 done?

7 MR. DETTMER: Same time I was out there
8 on the 1st.

9 MR. MUELLER: The exhibit doesn't say
10 that work needed to be done in places where you
11 placed X's?

12 MR. DETTMER: Those are my notes. Those
13 are inspector notes.

14 MR. MUELLER: That don't indicate -- It
15 just shows one big X, right?

16 MR. DETTMER: Yes. Clean-up needed
17 at -- clean-up work.

18 MR. MUELLER: Now, it doesn't indicate
19 where the particular piece of paper was.

20 MR. DETTMER: This is strictly for my
21 review, sir.

22 MR. MUELLER: All right. Now, that
23 having been said, where are the parcels with
24 regard to which you have issued tickets on these

1 maps?

2 MR. DETTMER: Here.

3 MR. MUELLER: Which would be 11 and 12?

4 MR. DETTMER: Yes.

5 MR. MUELLER: So the tickets are issued
6 as to 11 and 12 and the photographs were taken of
7 9 and 10?

8 MR. DETTMER: No. They were taken here.
9 We came in off -- I was wrong. I was on the wrong
10 side.

11 MR. MUELLER: So the photographs were
12 taken of parcels 11 and 12?

13 MR. DETTMER: Yes.

14 MR. MUELLER: Now, using that as a
15 reference, you identified G, H, I and J and C, D,
16 E and F as being a 9186 Sleepy Hollow Road
17 address, right?

18 MR. DETTMER: That's the address that we
19 received.

20 MR. MUELLER: Which is the -- You
21 received from whom? Which -- Who did you get the
22 addresses from, sir?

23 MR. DETTMER: We got them on the -- they
24 were given to me. I don't know how we got them.

1 MR. MUELLER: And were -- Does that 9186
2 correspond to 11 or 12?

3 MR. DETTMER: 12.

4 MR. MUELLER: That corresponds to 12.
5 Do you have any pictures of parcel 11?

6 MR. DETTMER: No.

7 MR. MUELLER: So there are no pictures
8 of the other address. What about photographs A
9 and B? You haven't told us --

10 MR. DETTMER: Those are from the scene.

11 MR. MUELLER: All right. So all of the
12 photographs came from just the 9186 address,
13 right?

14 MR. DETTMER: Mm-hum. Yes.

15 MR. MUELLER: And as you marked it, you
16 thought that the clean-up work needed to be done
17 as to parcel 11, right?

18 MR. DETTMER: Yes.

19 MR. MUELLER: And what's your notation
20 as to parcel 12?

21 MR. DETTMER: Parcel 12, I believe you
22 have my notations.

23 MR. MUELLER: What does your note say
24 there?

1 MR. DETTMER: Needs work.

2 MR. MUELLER: Needs work. It doesn't
3 say clean-up, it just says --

4 MR. DETTMER: That's my terminology.

5 MR. MUELLER: Sir, does it say needs
6 clean-up or does it say needs work?

7 MR. DETTMER: Needs work.

8 MR. MUELLER: And what does it say for
9 12?

10 MR. DETTMER: Clean-up needed.

11 MR. MUELLER: So you wrote different
12 things for the two parcels, right?

13 MR. DETTMER: Yes. Those are inspector
14 notes.

15 MR. MUELLER: And you are the inspector,
16 right?

17 MR. DETTMER: Yes.

18 MR. MUELLER: By the way, would it
19 refresh your recollection about meeting Mr. Hamman
20 if there were -- on June 19th if there were phone
21 records of conversations between his telephone and
22 your cell phone?

23 MR. DETTMER: Different conversations I
24 have had with Mr. Hamman.

1 MR. MUELLER: On June 19th?

2 MR. DETTMER: Various different times.

3 MR. MUELLER: You understand you are
4 under oath, sir?

5 MR. DETTMER: Yes.

6 MR. MUELLER: And you are saying you
7 gave him these tickets on June 3rd?

8 MR. DETTMER: Best of my knowledge,
9 that's what my --

10 MR. MUELLER: Let me ask you this. Do
11 you have any independent recollection of when you
12 physically gave him the tickets?

13 MR. DETTMER: I believe that I gave them
14 on the 3rd when I had written them, I took them
15 out, and I had called him and I said I would be
16 bringing them out and brought them to him. He met
17 me out there.

18 That's the best I can -- the 19th is
19 not even in my log because I keep a running log
20 when I go out and meet with people and do things.

21 MR. MUELLER: How many total pieces of
22 paper did you see on parcel 11 -- 12?

23 MR. DETTMER: I did not count.

24 MR. MUELLER: How many acres is parcel

1 12?

2 MR. DETTMER: I do not know, sir.

3 MR. MUELLER: Is it more than 600?

4 MR. DETTMER: I have no idea, sir.

5 MR. MUELLER: What was the density of
6 the paper that you saw in terms of how many pieces
7 of paper per square yard?

8 MR. DETTMER: I cannot answer that, sir.

9 MR. MUELLER: If I may have a minute,
10 Madame Hearing Officer, I might be done.

11 MS. FISHER: Mr. Dettmer, may I see the
12 maps?

13 MR. DETTMER: Pardon?

14 MS. FISHER: May I see the maps?

15 MR. DETTMER: He took them.

16 MR. MUELLER: I will give you this list
17 to review while I am conferring with my client.

18 MR. DETTMER: These are the same as
19 that. We marked X's on the ones and then I put
20 some notes here just for my own benefit. This is
21 the cleaner of the two fields.

22 MS. FISHER: All right. Thank you,
23 Mr. Dettmer.

24 MR. DETTMER: Sorry.

1 MS. FISHER: That's all right.

2 MR. MUELLER: Thank you for the
3 indulgence, Madame Hearing Officer. We have no
4 further questions.

5 MS. FISHER: Anything further from the
6 City?

7 MR. DETTMER: No, ma'am.

8 MS. FISHER: Okay. Mr. Mueller, you may
9 proceed if you wish.

10 MR. MUELLER: We'll call Mr. Hamman.

11 MS. FISHER: Mr. Hamman, please raise
12 your right hand.

13 (The witness was thereupon
14 duly sworn.)

15 MS. FISHER: You may proceed.

16 MR. MUELLER: State your full name,
17 please.

18 MR. HAMMAN: Donald J. Hamman.

19 MR. MUELLER: Mr. Hamman, where do you
20 reside?

21 MR. HAMMAN: 1335 1B Faxon Road, Plano,
22 Illinois.

23 MR. MUELLER: And, sir, do you own
24 certain land in the vicinity of Sleepy Hollow Road

1 and Route 71?

2 MR. HAMMAN: Yes.

3 MR. MUELLER: If I may, Madame Hearing
4 Officer, retrieve these maps.

5 Let me ask you, sir, with regard to
6 Yorkville Exhibit No. 3 where you see parcels that
7 have been numbered by Mr. Dettmer --

8 MR. HAMMAN: Yes.

9 MR. MUELLER: -- there is parcel number
10 11?

11 MR. HAMMAN: Yes, I see that.

12 MR. MUELLER: Do you own that piece of
13 property?

14 MR. HAMMAN: We own about 20 acres of
15 that; the balance of it is owned by the Virginia
16 Wells family.

17 MR. MUELLER: How many acres is parcel
18 11 as shown on there?

19 MR. HAMMAN: Oh, about 160.

20 MR. MUELLER: And where is the 20 that
21 you own?

22 MR. HAMMAN: This portion or section
23 lying north.

24 MR. MUELLER: So you don't own the piece

1 along the road?

2 MR. HAMMAN: This portion right in here.

3 MR. MUELLER: Indicating toward the left
4 edge of --

5 MR. HAMMAN: Sleepy Hollow Road is not
6 indicated on here, is it?

7 MR. MUELLER: Yes, it is. This is
8 Sleepy Hollow.

9 MR. HAMMAN: No, that's Commonwealth
10 Edison.

11 MR. MUELLER: Oh, okay.

12 MR. HAMMAN: This map is not correct.
13 Sleepy Hollow Road is not on here.

14 MR. MUELLER: So what Mr. Dettmer was
15 indicating is the way that he drove in is, in
16 fact, the Commonwealth Edison right-of-way road?

17 MR. HAMMAN: That is correct.

18 MR. MUELLER: If I can get a copy of
19 this to the hearing officer to review while we are
20 talking.

21 That's not even a road, sir?

22 MR. HAMMAN: No, it is not. It's where
23 the big erector-type high lines are at.

24 MR. MUELLER: And do people drive under

1 those high lines?

2 MR. HAMMAN: Absolutely not.

3 MR. MUELLER: Is there a road depicted
4 on this map?

5 MR. HAMMAN: No, there are -- is not.

6 MR. MUELLER: Is Sleepy Hollow Road
7 depicted on this map?

8 MR. HAMMAN: No.

9 MR. MUELLER: Okay. And let me show you
10 also what's been marked as Yorkville Exhibit 2 and
11 as to the parcel that's X'd as needs clean-up. Do
12 you own that parcel?

13 MR. HAMMAN: Well, once again, the road
14 is not depicted on there. I can't determine
15 without that road being the landmark there.

16 MR. MUELLER: But you say of that
17 southern piece, parcel 11, you own about 20 of
18 that 160 acres?

19 MR. HAMMAN: I can't determine that
20 without the road being on there, with these lines
21 on here.

22 MR. MUELLER: So if you can't determine
23 it, how would Mr. Dettmer have determined it, do
24 you have any idea?

1 MS. FISHER: Counsel, calls for
2 speculation.

3 MR. MUELLER: I didn't know the judge
4 could also make objections. That I think is
5 indicative of --

6 MS. FISHER: I can keep out evidence
7 that is irrelevant, sir.

8 MR. MUELLER: -- this process. All
9 right. Mr. Hamman, let's move forward.

10 You are in the business of land
11 application of landscape waste onto some property
12 along Route 71?

13 MR. HAMMAN: Yes.

14 MR. MUELLER: How many acres do you have
15 that's in that program?

16 MR. HAMMAN: Approximately 2,000 acres.

17 MR. MUELLER: Can you describe what the
18 program does?

19 MR. HAMMAN: We take in municipal yard
20 waste that the haulers pick up that people set out
21 at the curbs, it's brought to our location, it's
22 dumped on the ground.

23 Laborers inspect it as it's coming
24 off of the trucks. If there is any foreign

1 material, they pick it up, then it's put into a
2 grinder and it's ground. Once again it's in a
3 pile.

4 There is laborers that walk around
5 the pile, pick up plastic or whatever they see,
6 then it's spread in these enormous manure
7 spreaders out on the field and then it's chisel
8 plowed in, and then laborers once again pick the
9 fields if they see any foreign debris, and we make
10 organic soil for our farming.

11 MR. MUELLER: Is that a process that is
12 permitted and regulated by the IEPA?

13 MR. HAMMAN: Yes.

14 MR. MUELLER: And do you, in fact, have
15 an IEPA permit for the process?

16 MR. HAMMAN: Yes.

17 MR. MUELLER: How long have you had such
18 a permit?

19 MR. HAMMAN: We have been doing it since
20 1993.

21 MR. MUELLER: And does the permit
22 require the grinding and application to the field?

23 MR. HAMMAN: The permit does not require
24 the grinding. We do that to facilitate because

1 there is large logs coming in with yard waste,
2 there is brush, and it's all commingled together.

3 Obviously we can't spread the logs
4 on the field, so everything is ground in, the
5 leaves and yard waste off the gardens, et cetera,
6 is all ground into a uniform.

7 MR. MUELLER: Does municipal yard waste
8 come in in paper bags?

9 MR. HAMMAN: Yes, it does.

10 MR. MUELLER: And are those specific
11 paper bags that are actually biodegradable?

12 MR. HAMMAN: They are craft
13 biodegradable.

14 MR. MUELLER: And are the bags mandated
15 by the agency for packing in of yard waste?

16 MR. HAMMAN: Correct.

17 MR. MUELLER: They are allowed -- the
18 pieces of bags as they come out of the grinder are
19 allowed to be spread in the field as well; is that
20 correct?

21 MR. HAMMAN: Yes.

22 MR. MUELLER: That's an inherent part of
23 your permit and allowed by the IEPA?

24 MR. HAMMAN: Yes.

1 MR. MUELLER: And do you get IEPA
2 inspections?

3 MR. HAMMAN: Yes, we do.

4 MR. MUELLER: The particular property,
5 the parcel 12 at least that is the one that
6 Mr. Dettmer has all the photographs of, how often
7 is that property inspected by the IEPA?

8 MR. HAMMAN: Last year it was on a
9 weekly basis.

10 MR. MUELLER: And were there any
11 violations found last year?

12 MR. HAMMAN: No.

13 MR. MUELLER: This year how often has it
14 been inspected?

15 MR. HAMMAN: They have been out there
16 probably four times that I am aware of. They come
17 unannounced and lots of times they don't even let
18 us know that they have been there.

19 MR. MUELLER: When is the most recent
20 time you were inspected?

21 MR. HAMMAN: There was somebody there
22 today.

23 MR. MUELLER: And did he find any
24 violations today?

1 MR. HAMMAN: I wasn't told of any, no.

2 MR. MUELLER: When is the last time
3 before today he was there?

4 MR. HAMMAN: About ten days ago.

5 MR. MUELLER: And did he find any
6 violations at that time?

7 MR. HAMMAN: I was not told of any.

8 MR. MUELLER: And is litter on the
9 fields a violation?

10 MR. HAMMAN: Litter on -- no.

11 MR. MUELLER: I mean, not -- my question
12 is are you allowed to have litter on the fields?

13 MR. HAMMAN: Our permit says that we can
14 have -- it's not zero tolerance. Yes, we can have
15 litter on the fields.

16 MR. MUELLER: A certain amount is
17 inherent in the process, right?

18 MR. HAMMAN: That's correct.

19 MR. MUELLER: Now, the permit allows
20 that, correct?

21 MR. HAMMAN: Yes.

22 MR. MUELLER: Do you have -- But if it's
23 excessive litter, the agency can write you up for
24 that, right?

1 MR. HAMMAN: Absolutely.

2 MR. MUELLER: And, in fact, they did
3 that in 2007, didn't they?

4 MR. HAMMAN: Yes, they did.

5 MR. MUELLER: And that's still pending?

6 MR. HAMMAN: Yes, it is.

7 MR. MUELLER: There were no violations
8 in weekly visits last year?

9 MR. HAMMAN: No.

10 MR. MUELLER: No violations this year?

11 MR. HAMMAN: No.

12 MR. MUELLER: And they have been out
13 there both before and since June 3rd?

14 MR. HAMMAN: Yes.

15 MR. MUELLER: Multiple times?

16 MR. HAMMAN: Yes.

17 MR. MUELLER: Do you have people
18 employed who are in the business of keeping litter
19 or rubbish to a minimum on the fields?

20 MR. HAMMAN: I have four people that are
21 employed.

22 MR. MUELLER: And how many hours a week
23 do they work?

24 MR. HAMMAN: They work five and a half

1 days, they were working ten-hour days, so that's
2 54 hours a week approximately.

3 MR. MUELLER: Four people working
4 54 hours a week doing nothing but cleaning the
5 fields and the areas around them?

6 MR. HAMMAN: Well, part of their job --
7 when the trucks come in, they monitor when it
8 comes off of the truck, they monitor it before --
9 when the machines pick it up and dump it into the
10 grinder. Then when it comes out, they walk the
11 piles. If they see something, they pick it up,
12 and then after it's applied to the fields, they
13 walk the fields.

14 MR. MUELLER: So they are essentially
15 full-time pickers?

16 MR. HAMMAN: Oh, yes.

17 MR. MUELLER: What do you pay them, by
18 the way?

19 MR. HAMMAN: They are paid \$13 an hour.

20 MR. MUELLER: Now, Mr. Hamman, do you
21 remember having a meeting with Bill Dettmer on
22 June 3rd?

23 MR. HAMMAN: Yes, I do.

24 MR. MUELLER: And where did that meeting

1 take place?

2 MR. HAMMAN: It took place on Sleepy
3 Hollow Road at the farmhouse at the top of the
4 hill in the north driveway.

5 MR. MUELLER: And Sleepy Hollow Road is
6 not depicted on either of these maps; is that
7 correct?

8 MR. HAMMAN: No.

9 MR. MUELLER: The place that he said he
10 drove in is, in fact, a Commonwealth Edison
11 right-of-way?

12 MR. HAMMAN: Yes.

13 MR. MUELLER: It's under the high
14 tension lines --

15 MR. HAMMAN: Yes.

16 MR. MUELLER: -- which run through your
17 property?

18 MR. HAMMAN: Yes.

19 MR. MUELLER: We are talking about the
20 big lines that come from power houses?

21 MR. HAMMAN: Yes.

22 MR. MUELLER: All right. Do you
23 remember, what time of day was the conversation
24 you had with Mr. Dettmer?

1 MR. HAMMAN: We met out there
2 approximately noontime as I recall.

3 MR. MUELLER: All right. And what did
4 he have to say to you at that time?

5 MR. HAMMAN: He said, "Don," he said,
6 "I've got these tickets here," he said, "I don't
7 see a violation, I can't issue." At the time
8 there were actually men out in the fields picking
9 up the material, he seen what was going on, and we
10 parted ways and he left.

11 MR. MUELLER: Did he say anything about
12 why he even had the tickets?

13 MR. HAMMAN: He said he was ordered to
14 come out there and bring those tickets.

15 MR. MUELLER: And did he tell you who
16 ordered him to bring the tickets out there?

17 MR. HAMMAN: The Mayor.

18 MR. MUELLER: Now, when is the next time
19 after June 3rd, 2009 that you met with
20 Mr. Dettmer?

21 MR. HAMMAN: On the 19th.

22 MR. MUELLER: And where did you meet
23 with him at that time?

24 MR. HAMMAN: We met at the very corner

1 of 71 and the State of Illinois area where they
2 store black dirt. We pulled in there. He was
3 actually there when I pulled up and he said --

4 MR. MUELLER: Well, let's wait about
5 what he said. Let's go back. Did you have a
6 conversation with him by phone beforehand to
7 arrange the meeting?

8 MR. HAMMAN: He called me and said,
9 "Don," he said, "you may want to meet me or you
10 may want to avoid me." I said, "I am a big boy, I
11 will meet you." He said, "I've got these
12 tickets." I said, "You don't have to chase me,
13 I'll come and I'll get the tickets."

14 MR. MUELLER: And when you met him at
15 the scene, did he tell you why he was giving you
16 the tickets at that time?

17 MR. HAMMAN: He said he was ordered to
18 bring the tickets by the Mayor.

19 MR. MUELLER: Did he say anything else
20 about the condition of the fields?

21 MR. HAMMAN: He did not, but at the time
22 when -- there was three of my employees that
23 witnessed this going on, too, when we exchanged
24 paperwork.

1 MR. MUELLER: So you didn't get the
2 tickets until --

3 MR. HAMMAN: The 19th.

4 MR. MUELLER: -- the 19th of June?

5 MR. HAMMAN: That's correct.

6 MR. MUELLER: And once again, on
7 June 3rd, Mr. Dettmer said to you about -- what
8 did he say again about the condition of your
9 fields on June 3rd?

10 MS. FISHER: Counsel, I heard what he
11 said the first time.

12 MR. MUELLER: All right. Now, did you
13 inspect your fields on June 3rd, the day that you
14 met him when he had the tickets and didn't give
15 them to you?

16 MR. HAMMAN: I go by the fields on a
17 daily basis, that's part of my job, and I don't --
18 didn't see these violations.

19 MR. MUELLER: Now, let me show you the
20 two tickets that we have, sir. I will show you
21 the one that's marked number 07, and what's the
22 address on that one, sir, of the property that --
23 Do you need your glasses?

24 MR. HAMMAN: 9168 Sleepy Hollow Road.

1 MR. MUELLER: All right. And where is
2 that located?

3 MR. HAMMAN: I don't -- can't say that
4 if that's the grain bin at the top of the hill
5 down on Walker Road or if this is the -- I'm
6 almost certain this is the grain bin.

7 MR. MUELLER: 9168 is a grain bin?

8 MR. HAMMAN: Yes.

9 MR. MUELLER: Are there any -- Did you
10 guys even inspect the grain bin that day, you and
11 Mr. Dettmer?

12 MR. HAMMAN: No, we did not.

13 MR. MUELLER: What's the address of the
14 other ticket?

15 MR. HAMMAN: It's 9776.

16 MR. MUELLER: And was that the property
17 that corresponds to area 12 on Mr. Dettmer's map?
18 Let me show you that map again if I may, Your
19 Honor, Madame. Thank you.

20 Again, showing you these numbered
21 areas, that's area 12?

22 MR. HAMMAN: I presume that would be
23 where the farmhouse is and the barns and corn
24 crib. That's area 12. Once again, Sleepy Hollow

1 Road is not depicted on this.

2 MR. MUELLER: All right. But based
3 upon -- which -- What address corresponds to area
4 12?

5 MR. HAMMAN: 9776.

6 MR. MUELLER: 9776, okay. And 9168 is
7 just an address of the grain bin?

8 MR. HAMMAN: Correct.

9 MR. MUELLER: Now, may I see the
10 photographs, Your Honor?

11 MS. FISHER: Mr. Dettmer.

12 MR. MUELLER: Mr. Dettmer.

13 Don, let me show you photographs --
14 this is Yorkville Exhibit 1 now, photographs A
15 through J, and ask you if those fairly depict the
16 condition of your fields where you do landscape
17 waste application on or about June 3rd.

18 MR. HAMMAN: Yes.

19 MR. MUELLER: And do you see white specs
20 in those fields on the photographs?

21 MR. HAMMAN: I've got my glasses on and
22 I -- I don't see it.

23 MR. MUELLER: All right. Why don't you
24 look at all of them, see if there is any white

1 specs that you see.

2 (Witness peruses.)

3 MR. HAMMAN: Maybe one right here, I see
4 something.

5 MR. MUELLER: And what photograph are
6 you looking at, sir? That's marked number C? Or
7 number G, excuse me.

8 MR. HAMMAN: G.

9 MR. MUELLER: G. And if there is paper
10 in those fields, that would be the bags that are
11 permissible?

12 MR. HAMMAN: Yes.

13 MR. MUELLER: Now, one of these
14 photographs -- All right. Now, you are indicating
15 on photograph H is where Mr. Dettmer was parked at
16 the right-hand edge of photograph H?

17 MR. HAMMAN: That's correct.

18 MR. MUELLER: Okay. And do you see
19 any --

20 MR. HAMMAN: That's where we met at when
21 he had -- and he didn't serve the tickets on me on
22 that day.

23 MR. MUELLER: On June 3rd?

24 MR. HAMMAN: Correct. Right here.

1 MR. MUELLER: Do you see on photograph H
2 any rubbish in that photograph?

3 MR. HAMMAN: Absolutely not. That's the
4 supposed road right here.

5 MR. MUELLER: In photograph C the high
6 lines are depicted in the far distance and you're
7 saying that's the road that's depicted by
8 Mr. Dettmer --

9 MR. HAMMAN: Yes.

10 MR. MUELLER: -- is that correct?

11 MR. HAMMAN: Yes.

12 MR. MUELLER: And then on photograph E
13 Mr. Dettmer indicated what he thought was a piece
14 of plastic in the field. Do you see that?

15 MR. HAMMAN: I do.

16 MR. MUELLER: And do you know what that
17 piece of plastic was?

18 MR. HAMMAN: I do not.

19 MR. MUELLER: Was that ever pointed out
20 to you on that day?

21 MR. HAMMAN: No, it was not.

22 MR. MUELLER: Did you place that piece
23 of plastic there?

24 MR. HAMMAN: I did not.

1 MR. MUELLER: Do you know who did?

2 MR. HAMMAN: No, I do not.

3 MR. MUELLER: Do you know how long it
4 had been there?

5 MR. HAMMAN: Do not.

6 MR. MUELLER: Roughly how many feet or
7 miles of road frontage do you control?

8 MR. HAMMAN: Oh, approximately six
9 miles.

10 MR. MUELLER: In this particular area?

11 MR. HAMMAN: Yes.

12 MR. MUELLER: And in that six miles of
13 lineal road frontage, do you experience occasional
14 problems with people fly dumping?

15 MR. HAMMAN: Yes.

16 MR. MUELLER: What is fly dumping as you
17 understand it?

18 MR. HAMMAN: Well, people, rather than
19 pay to have their garbage picked up, in the middle
20 of the night they will go out on a rural road and
21 dump it.

22 MR. MUELLER: And you also have people
23 throwing McDonald's bags out car windows that end
24 up on your roadsides?

1 MR. HAMMAN: McDonald's or Pizza Hut,
2 beer cans, pop cans, you name it.

3 MR. MUELLER: And your pickers pick that
4 stuff up?

5 MR. HAMMAN: We don't distinguish which
6 is our waste; we pick everything up.

7 MR. MUELLER: Now, a lot of that stuff
8 ends up in the ditches, correct?

9 MR. HAMMAN: Yes, it does.

10 MR. MUELLER: And the ditches aren't
11 even your property, are they?

12 MR. HAMMAN: No.

13 MR. MUELLER: The ditches are the road
14 right-of-ways?

15 MR. HAMMAN: Correct.

16 MR. MUELLER: You pick them as well as
17 your own property?

18 MR. HAMMAN: Yes, we do.

19 MR. MUELLER: And by the way, as to this
20 plastic that's depicted in -- faintly depicted in
21 photograph E, can you tell how many feet off the
22 road that is?

23 MR. HAMMAN: That looks like it would
24 probably be 20 feet.

1 MR. MUELLER: So that could very well be
2 in the right-of-way and not even on your property,
3 right?

4 MR. HAMMAN: Could be.

5 MR. MUELLER: No way to tell for sure
6 without a survey or measurement; is that correct?

7 MR. HAMMAN: Right.

8 MR. MUELLER: Mr. Dettmer didn't show
9 you any measurements, did he?

10 MR. HAMMAN: Nothing.

11 MR. MUELLER: Anything else you want to
12 add about your operation, Mr. Hamman?

13 MR. HAMMAN: We take a great deal of
14 pride in our operation because we serve a need
15 that's desperately needed in today's civilization.
16 People for some reason want to get rid of their
17 yard waste, and rather than fill up landfills, we
18 take it and create an organic soil amendment out
19 of it.

20 We have been doing this since 1993
21 and we've turned a farm where two previous tenants
22 went bankrupt into a very fertile farm.

23 MR. MUELLER: Thank you. I have no
24 further questions. And we would move for the

1 admission of Yorkville Exhibits 1, 2 and 3.

2 MS. FISHER: They will be admitted.

3 (Exhibits so admitted.)

4 MS. FISHER: May I see the photographs?

5 Do you have any further evidence, Mr. Mueller?

6 MR. MUELLER: We do not.

7 MS. FISHER: Okay. Anything in rebuttal
8 from the City?

9 MR. DETTMER: I have no -- in my
10 property maintenance log that I maintain anything
11 of meeting with Mr. Hamman on the 19th.

12 I did enter the property and inspect
13 it on June 3rd, I actually started on 5-28 through
14 the 3rd, in which I did formal inspections, I did
15 talk with Mr. Hamman, I did advise him that I was
16 issuing him citations, which were written, and to
17 my best recollection, I put them on the dash of
18 his truck. That's all I can remember on that
19 point.

20 As for the actual location of
21 different debris there, in property maintenance
22 work we don't pick the debris up, touch it. You
23 advise the people. We can advise the people on --
24 He is the person who is doing the farming on all

1 the property, so my point is on the property
2 maintenance logs I can cite the occupant user of
3 the property as well as the owner.

4 Mr. Hamman was very courteous to me
5 on the meetings we had. I did explain to him that
6 I can make copies of the tickets and I did do
7 that. He did receive them with courtesy.

8 To the best of my knowledge this
9 information was given to me by another department
10 and I was advised that these documents were true
11 areas for us to do our investigation on. I did
12 not produce those documents myself.

13 MS. FISHER: Anything further?

14 MR. MUELLER: I have some cross
15 examination based on that.

16 Mr. Dettmer, did -- is there other
17 farm ground within the municipal limits of
18 Yorkville?

19 MR. DETTMER: Yes.

20 MR. MUELLER: And do you occasionally
21 see beer cans, plastic bags, McDonald's bags and
22 other minor debris in the ditches and along the
23 roadways of that farm ground?

24 MR. DETTMER: I see it in various

1 different locations in the city as I drive
2 through.

3 MR. MUELLER: Have you ever cited -- How
4 many years have you been doing this?

5 MR. DETTMER: I have been doing this
6 work for 36 years, sir.

7 MR. MUELLER: Have you ever cited any
8 other farmer for rubbish based upon a piece of
9 plastic he had in a field?

10 MR. DETTMER: No, sir.

11 MR. MUELLER: Have you ever cited any
12 other farmer for rubbish based upon paper in the
13 field?

14 MR. DETTMER: No, sir.

15 MR. MUELLER: That's all.

16 MS. FISHER: All right. I've heard all
17 the evidence, I have the exhibits before me. The
18 question is did Mr. Hamman violate 305.1, which is
19 accumulation of rubbish or garbage, which is
20 defined as all exterior properties and premises
21 and the interior of every structure shall be free
22 from any accumulation of rubbish or garbage.

23 There's been a lot of testimony
24 about who was told to issue tickets, about what

1 land is owned and how the operation on the land
2 works.

3 Mr. Hamman, it sounds like you are
4 running an operation that may be good, I don't
5 know much about it, but -- other than what you
6 have explained tonight.

7 Based on the testimony before me,
8 the only thing I'm concerned with is not what's
9 running on the land, but whether or not there was
10 any rubbish on the land, okay?

11 That's how the code is written,
12 that's how the ordinance is written, and that's
13 the only thing I am deciding on at this point.

14 Based on the testimony I have before
15 me, ten pictures that do not depict parcel 11,
16 which is the 9168 address, and the testimony
17 basically stated that that was a grain bin, there
18 has not been any rebuttal to that.

19 So based on that testimony and based
20 on the evidence before me that ordinance ticket 09
21 OV 298 will be found not liable.

22 Now, 09 OV 299, which is the 9776
23 property, which is I believe parcel 12, I do have
24 photographs before me of that particular parcel.

1 I would note that although it is slim, there is
2 rubbish, what could be considered rubbish, on the
3 property.

4 Mr. Hamman, I do grant you that this
5 was perhaps a very picky violation; however, I
6 have to follow the ordinance as written, so based
7 on the ordinance as it's written at this time and
8 everything before me, I find you liable on that
9 particular ticket.

10 So on that ticket I will find you
11 liable and order a \$50 fine and a \$100 court cost.

12 MR. MUELLER: Pardon me, how much fine?

13 MS. FISHER: \$50 fine, \$100 court cost.

14 And that concludes the matter for this evening.

15 MR. MUELLER: Madame Hearing Officer,
16 I'd ask that the exhibits be preserved for
17 purposes of the appeal.

18 MS. FISHER: They will be.

19 (Which were all the
20 proceedings had in the
21 aforementioned cause.)

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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF LA SALLE)

3 I, Christine M. Vitosh, a Certified
4 Shorthand Reporter, do hereby certify that I
5 reported in shorthand the proceedings had at the
6 hearing of the above-entitled cause and that the
7 foregoing Report of Proceedings, Pages 1 through
8 71, inclusive, is a true, correct, and complete
9 transcript of my shorthand notes so taken at the
10 time and place aforesaid.

11 I further certify that I am neither
12 counsel for nor related to counsel for any of the
13 parties to this suit, nor am I in any way related
14 to any of the parties to this suit, nor am I in
15 any way interested in the outcome thereof.

16 I further certify that my
17 certificate annexed hereto applies to the original
18 transcript and copies thereof, signed and
19 certified under my hand only. I assume no
20 responsibility for the accuracy of any reproduced
21 copies not made under my control or direction.

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23

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1 In testimony whereof, I have
2 hereunto set my hand this 28th day of July, A.D.,
3 2009.

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Christine M. Vitosh, CSR
CSR No. 084-002883