



*City of*  
**LAWRENCE**  
*Indiana*

COPY

Steven Collier, Mayor

Office of Environmental Adjudication (OEA)  
100 North Senate Avenue  
Indiana Government Center North, Room N501  
Indianapolis, IN 46204

May 17, 2016

**RE: Notice of Appeal of Transfer Permit FP 49-49**

To Whom It May Concern:

Enclosed please find the original and two (2) copies of the City of Lawrence's Notice of Appeal/Petition for Review and Petition for Stay of Effectiveness regarding the above-referenced transfer permit.

Pursuant to Indiana Trial Rule 5(f) and Ind. Code 4-21.5-3-1, please file stamp this pleading with today's date. Please let me know if you have any questions or need any additional information. Thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, reading "Maura J. Hoff". The signature is fluid and cursive, with the first name "Maura" being more prominent.

Maura J. Hoff  
City Attorney  
City of Lawrence, IN

RECEIVED

MAY 20 2016

DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT  
OFFICE OF LAND QUALITY

9001 E. 59th St., Suite 301  
Lawrence, IN 46216  
317.545.6191

STATE OF INDIANA  
OFFICE OF ENVIRONMENTAL ADJUDICATION

IN RE: RAY'S TRASH SERVICE, INC.  
SOLID WASTE PERMIT TRANSFER  
PERMIT FP 49-49,

Applicant.

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MAY 20 2016

DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT  
OFFICE OF LAND QUALITY

NOTICE OF APPEAL/PETITION FOR REVIEW AND  
PETITION FOR STAY OF EFFECTIVENESS

Background and Facts

1. The City of Lawrence, Indiana, is a municipality located in Marion County, Indiana ("Lawrence"). Lawrence is an excluded City under the terms of the Indianapolis/Marion County consolidation.
2. Cameron Starnes is the Director of Economic Development for Lawrence and the person filing this appeal on behalf of Lawrence.
3. The 56<sup>th</sup> Street Recycling and Transfer Facility, located at 10000 East 56<sup>th</sup> Street, and the location of the subject transferred permit, is within the corporate boundaries of Lawrence ("Permit Location").
4. Lawrence is an aggrieved party to the decision to approve the transfer permit, the reasons for which are enumerated below.
5. Pursuant to Ind. Code 13-15-6-1, Lawrence now files its appeal of the permit transfer approval, requests a hearing on the same, and requests a stay of effectiveness through the date of said appeal hearing.
6. For purposes of correspondence and notice, Lawrence may be contacted at the following address: City of Lawrence, c/o Cameron Starnes, Director of Economic Development, 9001 E. 59<sup>th</sup> Street, Suite 301, Lawrence, IN 46216.

### Reasons for Appeal

7. Lawrence is devoted to maintaining quality of life, safety, and health of its residents.
8. Lawrence seeks to promote positive, productive land use within its boundaries.
9. No waste transfer activities have occurred in the Permit Location for more than two years, in which time commercial establishments have arisen, changing the landscape of this area.
10. The Permit Location is near a prominent intersection within Lawrence which has not only seen significant commercial economic growth in the last few years, but is also highly traveled by the public.
11. The Permit Location is no longer an appropriate location for this type of industrial use; it does not represent the highest and best use of this parcel and would damage the quality of life sought in this area for the citizens of Lawrence.
12. The Permit Location is in such close proximity to residential areas that it raises significant public health concerns for area residents.
13. In filing for a permit transfer rather than applying for a new permit, the IDEM Commissioner was not given full opportunity to become aware of the facts (through public notice and comment) that would have demonstrated that the permit should be denied.

### Issues Proposed for Appeal and Requested Relief

14. Whether Permit FP 49-49 should be revoked, pursuant to IC 13-15-17-1(2), (4) or (5), or any other applicable law, rule, or regulation.
15. Whether Applicant should be required to file an updated application requiring notice and public hearing prior to a permit being issued, pursuant to 329 IAC 10-13-1(a).
16. Due to the inactivity of permitted solid waste activities at the Permit Location for over two (2) years, and the subsequent significant changes in the proximate area, Appellant Lawrence respectfully request that this transfer permit be denied.



17. 329 IAC 10-13-6(b) states that "[i]f the solid waste disposal facility is located in an area that is not suitable for the placement of waste...the department shall consider the nonsuitability issue as a sufficient basis for...revoking the permit..." This then places the burden of proof on the applicant to demonstrate that its continued use of the facility does not pose a threat the human health or the environment. Thus, a hearing on those facts is appropriate.
18. Due to the nature of these activities and the potential for damage to public health, safety, and Lawrence's development efforts, a stay of effectiveness is necessary and appropriate under law until the administrative/environmental law judge and/or the Commissioner of IDEM has been able to consider this appeal and receive all pertinent facts and testimony.

Wherefore, Lawrence respectfully requests a stay of effectiveness for Permit FP 49-49, a determination that this appeal was properly submitted and establishes a jurisdictional basis for a hearing, that the ELJ set this matter for hearing, and for all other just and proper relief.

Respectfully submitted,



Cameron Starnes  
Director of Economic Development  
City of Lawrence, Indiana  
9001 E. 59<sup>th</sup> Street  
Suite 301  
Lawrence, IN 46216

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Notice of Appeal/Petition for Review and Petition for Stay of Effectiveness upon the following persons via first-class U.S. mail this 17<sup>th</sup> day of May, 2016:

Office of Environmental Adjudication (OEA)  
100 North Senate Avenue  
Indiana Government Center North, Room N501  
Indianapolis, IN 46204

Kristen Clason, IDEM  
Solid Waste Permits  
Indiana Government Center North, #1101  
100 North Senate Avenue  
Indianapolis, IN 46204-2251

Indiana Department of Environmental Management  
Attn: Commissioner Carol S. Comer  
100 North Senate Avenue  
Indianapolis, IN 46204

Ray's Trash Service, Inc.  
3859 E US Highway 40  
PO Box 1  
Clayton, IN 46118

Waste Management of Indiana  
3702 W Minnesota Street  
Indianapolis, IN 46241

Ridge Property Trust  
Attn: James G. Martell  
200 West Madison Street, Suite 1200  
Chicago, IL 60606

A handwritten signature in cursive script, reading "Maura J. Hoff", written over a horizontal line.

Maura J. Hoff, Atty No. 25475-49-A  
City Attorney