

Exhibit 16

July 15, 2016

Commissioner Helen R. Caulton-Harris
City of Springfield
1145 Main Street, Suite 208
Springfield, MA 01103

Re: Commissioner's/Public Health Council's legal authority to permit/deny a biomass plant via site assignment

Dear Commissioner Caulfield:

It has come to the Massachusetts Public Interest Research Group (MASSPIRG's) attention that the Public Health Council (PHC) was notified that Palmer Renewable Energy (PRE) would like to site a biomass plant in the City of Springfield. It has also come to MASSPIRG's attention that the PHC has recommended that you, the Commissioner of the Health Department, hold a site assignment hearing to allow, prohibit, or allow with conditions the proposed biomass plant.

MASSPIRG is a membership organization that provides technical assistance, research and support to citizens standing up to special interests who are threatening our health and safety, our financial security or our right to fully participate in our democratic society. MASSPIRG does not and cannot provide legal advice.

It is clear that any board of health in Massachusetts, whatever form they take, has the authority to review potentially noisome trades and restrict or prohibit their operation within the board's municipality. The noisome trade statute, G.L. Chapter 111, Section 143 states in relevant part that "No trade or employment which may result in a nuisance or be harmful to the inhabitants, injurious to their estates, dangerous to the public health, or may be attended by noisome and injurious odors shall be established in a city or town except in such location as may be assigned by the board of health thereof after a public hearing has been held thereon, subject to the provisions of Chapter Forty A and such board of health may prohibit the exercise thereof within the limits of the city or town or in places not so assigned, in any event."

Not only does a biomass plant fit within the above-described definition of noisome trade and is therefore subject to Chapter 111, Section 143, but a board of health's authority to site assign or prohibit facilities has been upheld repeatedly by the courts.

Please find *Leominster Materials Corporation v. Town of Lancaster*, 56 Mass. App. Ct. 820 (*Leominster*) the example most similar to the facts at hand, attached hereto for your review. In *Leominster*, the Board of Health of the Town of Lancaster determined that Leominster Materials Corporation, a company that had proposed to build a concrete and rock-crushing facility, was required to apply for a site assignment from the Board as per M.G. Chapter 111, Section 143. The company immediately appealed the Board's decision to require a site assignment.

The lower court found, and the appeals court confirmed, that the Board had the authority to review the proposed facility via site assignment and that the concrete company could not file an appeal until the Board had made their decision to allow or prohibit the facility. "Until the board considers the matter and forbids or circumscribes the proposed operations, LMC has not been harmed in a legal sense, is not aggrieved, and has no right to judicial review pursuant to G.L. c. 111, Section 147. If the board had considered an application for a site assignment and had acted, LMC would then have had an opportunity to persuade a jury that it is not a noisome business or, if it failed in that regard, to persuade the jury to exercise its powers under G.L. c. 111, Section 149."

There, as in Springfield, the Board had the power to require a site assignment hearing and determine whether the facility would result in a nuisance or be harmful to the inhabitants, injurious to their estates, dangerous to the public health, or may be attended by noisome and injurious odors. Until that public hearing is held, the proponent has not been damaged, and it is unclear whether the facility will be a safe, benign presence in Springfield, or a danger that must be prohibited or restricted.

Thank you in advance for your attention to this matter. Please contact me if you have any questions or need further information.

Very truly yours,

Kirstie L. Pecci, Staff Attorney