

ANNUAL REPORT  
OF THE  
WESTCHESTER COUNTY  
SOLID WASTE COMMISSION  
FOR 2001

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PREPARED FOR HON. ANDREW J. SPANO,  
WESTCHESTER COUNTY EXECUTIVE,  
AND THE  
WESTCHESTER COUNTY BOARD OF LEGISLATORS

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## INTRODUCTION

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In August 1999, the Westchester County Board of Legislators enacted and County Executive Andrew J. Spano signed into law “The Westchester County Solid Waste and Recyclables Collection Licensing Law” (“Chapter 826-a”). Chapter 826-a was enacted following disclosures during a series of legislative hearings that the solid waste and recyclables collection industries in Westchester County were permeated and dominated by organized crime. The hearings revealed that organized crime controlled cartels produced anti-competitive effects in the industry including, but not limited to, price-fixing; the prevention of new entry into the industry; the existence of unconscionable customer contract terms; and the incidence of corruption. Chapter 826-a was enacted in an attempt to address these problems, with the goals of eliminating the influence of organized crime in the solid waste and recyclables collection industries; ensuring that only individuals of suitable good character, honesty and integrity are licensed to operate within the solid waste and recyclables collection industries; and increasing competition.

The Westchester County Solid Waste Commission hereby submits its annual report of its activities during 2001.

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### MISSION STATEMENT OF THE WESTCHESTER COUNTY SOLID WASTE COMMISSION

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Our Mission is to promote the general health, welfare, and safety of the citizens of Westchester County by addressing the influence of organized crime in the solid waste and recyclables hauling industries operating in Westchester County; ensuring that only individuals and companies of suitable good character, honesty and integrity receive licenses to operate in the Westchester County solid waste and recyclables hauling industries; increasing competition within the solid waste and recyclables hauling market; enhancing consumer choice when a customer selects a carting company; facilitating a customer’s ability to change carters when appropriate; ensuring that solid waste generated within Westchester County is disposed of or recycled in an environmentally safe manner; and implementing and evaluating the effectiveness of the County’s Solid Waste Management Plan.

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## **DEPARTMENT RESPONSIBILITIES**

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- A. To perform background checks on all applicants and principals requesting a license or registration so as to ensure the good character, honesty and integrity of licensees and registrants in Westchester County.
- B. To issue licenses and registrations for the performance of activities for which a license or registration is required by Chapter 826-a.
- C. To ensure that only licensed carters haul solid waste and recyclables within Westchester County, and that licensed carters only use trucks registered with the Solid Waste Commission.
- D. To ensure that transfer stations are accepting solid waste and recyclables only from entities licensed by the Solid Waste Commission.
- E. To investigate all complaints against haulers that occur within Westchester County.
- F. To encourage new entry into the industry and encourage competition within the industry in Westchester County.
- G. To inform the public of its rights under the Westchester County Solid Waste and Recyclables Collection Licensing Law.

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## **SOLID WASTE COMMISSION LICENSING CATEGORIES**

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The Solid Waste Commission issues licenses determined by the type of waste a carter expects to haul. These licenses are:

Class A: for a carter who hauls any type of waste, including municipal solid waste, construction and demolition debris, recyclables, garden and yard waste and scrap metals.

Class B: for a carter who exclusively handles recyclables.

Class C: for a carter who exclusively handles construction and demolition debris. There are two types of Class C licenses:

Class C-1: for a business that generates construction and demolition debris; and which, incidental to such business, hauls the construction and demolition debris itself.

Class C-2: for a carter that hauls construction and demolition debris generated by others.

Class D: for a carter that hauls garden and yard waste.

Class E: for a business that exclusively collects scrap materials for sale to a recyclables broker and which uses no more than one vehicle for collection and transportation of such materials.

The Commission also registers Solid Waste Brokers, which are businesses that, for a fee, broker agreements between commercial establishments and carters, or evaluate the waste generated by commercial establishments in order to recommend cost efficient means of waste disposal or other changes in related business practices.

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**STATUS OF APPLICANTS UNDER CHAPTER 826-A:  
BACKGROUND INVESTIGATIONS, LICENSING DECISIONS  
AND NEW APPLICANTS**

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Chapter 826-a requires that the Commission investigate the backgrounds of applicants for Solid Waste Commission licenses, and their principals. As part of the background investigation process, Assistant County Attorneys working with the Commission depose the individuals identified as the principals of a license applicant, and when an investigation mandates, other individuals determined to be working in a managerial capacity for the Applicant. During 2001 and the first six weeks of 2002, Assistant County Attorneys conducted 122 depositions for the Commission.

During 2001, the Board of Legislators amended Chapter 826-a to extend the deadline by which the Commission must complete its background investigations of the original applicants for carting licenses. The new deadline is March 31, 2002.

Of the 109 original applicants for Class A, B, C-2 and D licenses and Solid Waste Broker registrations, 58 have been approved and issued licenses; 32 remain under consideration; 17 withdrew their applications; and 2 are in the midst of license-denial proceedings. While the Commission is continuing to investigate the backgrounds of these companies, we fully expect to comply with the Legislature's March 31<sup>st</sup> deadline.

The following constitutes a breakdown of Commission licensing decisions:

Year	Class A	Class B	Class C-2	Class D	Solid Waste Brokers	Total
Licensed in 2000	16		1			17
Licensed in 2001	21	4	8		2	35
Licensed in 2002	5		1			6
Remaining for licensing consideration	24	1	6		1	32
Companies in the midst of license denial proceedings	2					2

In addition, the Commission is receiving and reviewing new applications for licenses to haul solid waste and recyclables in the Westchester market. Some of these applicants are companies that are new to our market, while others were discovered by the Commission's inspectors operating in the County without a license, and then submitted applications after being put on notice concerning licensing requirements of Chapter 826-a.

The following constitutes a breakdown of the new applicants for Commission licenses:

Year	Class A	Class B	Class C-2	Class D	Solid Waste Brokers	Total new applicants by year
2001	15		2		1	18
2002	5		1			6
Total New Applicants by Category	20		3		1	24

During 2001, the Board of Legislators authorized the Commission to issue “Permits to Operate” to companies wishing to operate in Westchester County, but whose background investigations have not been completed. Permits to Operate enable such companies to operate in the Westchester market during the completion of their background investigation, thereby increasing the number of companies available to compete for Westchester carting business. To date, the Commission has issued Permits to Operate to three companies.

In addition to requiring the licensing of companies that haul solid waste and recyclables generated by others, Chapter 826-a requires that Class C-1 licenses be issued to companies that generate construction and demolition debris, and which, incidental to such business, transport, store, process, transfer or dispose of the construction and demolition debris generated by the operations of such businesses. After a period of review, the Board of Legislators voted to exclude from this licensing category the following types of companies, which are licensed by other Westchester County agencies, when such licenses are determined to be in good standing: (1) electricians; (2) plumbers; and (3) home improvement contractors, including landscapers. As a result of this amendment, 95 of the 169 original applicants for Class C-1 licenses were excluded from Solid Waste licensing requirements. The Commission refunded their application and background investigation fees. To date, 27 of the remaining C-1 applicants have been approved for licensing by the Commission. As with the remaining applicants for the major licensing categories, we fully expect to comply with the Legislature’s March 31<sup>st</sup> deadline for the remaining C-1 applicants.

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## INSPECTORS

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During 2001, the Commission’s inspectors conducted investigations daily throughout Westchester County, and submitted their findings, including possible violations, to the Executive Director. As a result of their efforts, unlicensed haulers either applied for Commission licenses or chose to cease operating within Westchester County. Further, as a result of Commission inspections and related enforcement actions, companies that used unregistered trucks to haul solid waste chose to register their trucks with the Commission and pay the required registration fees.

The following constitutes a summary of the inspectors’ activities and findings:

**Transfer Station Inspections: 89**

Trucks Inspected at Transfer Stations: 65

Unregistered Trucks found: 27

Unlicensed Companies found: 22

Unlicensed Companies that applied following discovery by the Commission: 5

Unlicensed Companies under investigation: 17

Note: Depending upon the size of a transfer station, the inspectors saw as many as 20-25 trucks per visit, each visit lasting 2-3 hours, on average. Most of the trucks the inspectors saw displayed Commission decals, indicating that the company was licensed and the truck registered with the Commission. The inspectors questioned drivers of trucks that did not display Commission decals, or of trucks which displayed decals but which had unfamiliar corporate names.

**Unlicensed Transfer Stations:**

As a result of information gathered from a variety of sources, the Commission discovered a number of construction and demolition debris transfer stations which never applied for licenses from the Commission. The inspectors have visited these sites and informed the owners of the County’s licensing requirements.

Unlicensed Transfer Stations discovered by the Commission: 8

Unlicensed Transfer Stations that applied for licenses following discovery: 2

Unlicensed Transfer Stations that are preparing applications following discovery: 3

Unlicensed Transfer Stations that are the subject of continuing investigation: 3

**Customer and Carter Complaints:**

The inspectors also investigated complaints by customers about billing discrepancies, contract disputes with their carters, and service problems. The inspectors interviewed the affected customers and carters, inspected the sites in question, and where appropriate tried to rectify problems through informal mediation with carters. Where serious issues were discovered, they conducted long-term investigations into a customer’s allegations. The inspectors’ findings may result in Commission enforcement actions or, where appropriate, referral to law enforcement authorities.

Investigations of customer and carter complaints: 21

Types of Disputes:

Contract disputes: 11

Billing discrepancies: 6

Failure to provide service: 4

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**COMPLIANCE AND HEARINGS; ENFORCEMENT; PENALTIES**

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During 2001, the Commission began to conduct administrative hearings to provide carters an opportunity to be heard concerning alleged violations of Chapter 826-a, and concerning the Commission’s license denial decisions.

The Commission’s first hearings were conducted during Fall 2001. By February 2002, the Commission authorized nine hearings for the following violations:

**Types of Violations**

License Denial.....2

Unregistered Truck.....2

Unlicensed Operation.....4

Unlicensed Operation (transfer station).....1

The fines recommended by the Commission ranged from \$1,000 (for the use of one unlicensed truck) to \$25,000 (for the operation of an unlicensed transfer station).

By February 2002, four hearings were completed. In each case, the respondent-carter pled guilty and accepted a fine, subject to the Commission's approval of the hearing officer's recommendation. In total, the hearing officer has recommended fines totaling \$6,100.

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## **SOLID WASTE COMMISSION BUDGET**

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During 2001, the Solid Waste Commission complied with its mandate to operate as a tax-levy neutral agency. The Commission's budget is based solely upon the application fees and yearly licensing fees charged applicants and licensees. These fees are:

For Class A, B, C-2 and D licensees: bi-annual application fees of \$350 per applicant and \$350 per principal; and annual licensing fees of \$1,000 per licensee; \$1,000 per vehicle used by licensee; \$20,000 per transfer station operated by a licensee; and \$50,000 per final waste disposal site located in Westchester operated by a licensee.

For Class C-1 licensees: bi-annual application fee of \$45 per applicant, and annual licensing fee of \$50 per vehicle used by licensee.

For Class E licensees: bi-annual application fee of \$45 per applicant, and annual licensing fee of \$50 per vehicle used by licensee.

For Solid Waste Brokers: bi-annual application fees of \$100 per applicant and \$100 per principal, and annual registration fee of \$250 per registrant.

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## **PUBLIC INFORMATION INITIATIVES**

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In March 2001, in an effort to inform Westchester's consumers about the Customer Bill of Rights, Westchester County Executive Andrew J. Spano sent a letter to all County businesses and residents who retain their own carters, informing them about their rights and obligations under Chapter 826-a, as specified in the Customer Bill of Rights. The letter emphasized the Solid Waste Commission's role in enforcing Chapter 826-a, and urged those receiving the letter to contact the Commission about any questions they might have concerning their carting service. As a result of this outreach, the Commission regularly fielded questions from businesses and residents about Chapter 826-a throughout 2001.

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## LAW ENFORCEMENT INITIATIVES

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Throughout 2001, the Commission fielded questions from local law enforcement agencies about the various provisions of Chapter 826-a and conducted informal educational sessions for interested officers and departments. In 2002, we plan to conduct further outreach for local law enforcement agencies, to discuss, among other provisions of the law, how they can engage in municipal enforcement of the truck registration requirements of Chapter 826-a.

Respectfully submitted

Bruce B. Berger  
Executive Director