

# Memorandum

MIAMI-DADE  
COUNTY

**Date:** November 6, 2007

Agenda Item No. 12(B)3

**To:** Honorable Chairperson, Bruno A. Barreiro  
and Members, Board of County Commissioners

**From:** George M. Burgess  
County Manager

**Subject:** Report on the Impact of United Haulers Association, Inc. v. Oneida-Herkimer Solid Waste Management Authority

On April 30, 2007, the U.S. Supreme Court ruled by a 6-3 vote that local municipalities can now guide garbage to their own facilities. In *United Haulers v. Oneida-Herkimer*, the Court upheld a "flow control" plan adopted by New York's Oneida and Herkimer Counties that reduced environmental hazards, encouraged County-wide recycling and provided a steady revenue stream to the Counties solid waste funds. The Court rejected the hauler argument that the rules in the flow control plan unconstitutionally discriminate against interstate commerce by barring shipments to sites that charge significantly lower fees. The Court stated that the rules did not discriminate against interstate commerce because they treated in-state private business interests exactly the same as out-of-state businesses. This ruling removes governmentally owned and operated solid waste programs from the impact of a 1994 court case where the Supreme Court barred laws funneling all trash to a designated private facility (*C & A Carbone, Inc. v. Clarkstown*, 511 U. S. 383).

Nationally, some local governments have enacted ordinances that direct solid waste from public and private haulers to specific government-owned and operated facilities. The Court found that there was no discrimination against interstate commerce if the only beneficiary is a publicly-run facility. The Court also opined that waste disposal is traditionally a local government function and that the Constitutionality of flow control ordinances should not be in question.

While no policy changes are being contemplated at this time for future Board of County Commissioner action, the Department of Solid Waste Management and the County Attorney's Office will continue to monitor developments surrounding the topic of flow control.

  
Assistant County Manager