

1 STATE OF ILLINOIS)
) SS:
2 COUNTY OF W I L L)

3 THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
4 WILL COUNTY, ILLINOIS

5 STUENKEL SOLAR FARM, LLC and)
6 KUSE SOLAR FARM, LLC,)

7 Plaintiffs,)

8 vs.)

Nos. 24 MR 40
24 MR 100

9 COUNTY OF WILL, an Illinois)
10 Municipal Corporation and)
11 KATIE DEANE-SCHLOTTMAN,)
12 JOE VANDUYNE, JUDY OGALLA,)
13 FRANKIE PRETZEL,)
14 DANIEL J. BUTLER,)
15 SHERRY NEWQUIST, STEVE BALICH,)
16 JIM RICHMOND, ANNETTE PARKER,)
17 SHERRY WILLIAMS, JANET DIAS,)
18 DENISE WINFREY, NATALIE COLEMAN,)
19 VINCE LOGAN, MICA FREEMAN,)
20 MARK V. REVIS, RAQUEL MITCHELL,)
21 DESTINEE ORTIZ, JULIE BERKOWICZ,)
22 METAL MUELLER, ELNALYN COSTA,)
23 JACQUELINE TRAYNERE, all in their)
24 representative capacity as)
County Board Members,)

Defendants.)

20 REPORT OF PROCEEDINGS had in the above-entitled
21 cause before the HONORABLE BENNETT J. BRAUN,
22 Judge of the Circuit Court of Will County,
23 Illinois, on the 23rd day of April, 2025.

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APPEARANCES:

MR. JAMES A. RODRIGUEZ,
Attorney At Law
for the Plaintiffs;

MR. MARTIN W. MCMANAMAN,
Attorney At Law
for the Defendants.

TAMMY M. MAIER, C.S.R.
OFFICIAL COURT REPORTER
WILL COUNTY COURTHOUSE
100 WEST JEFFERSON STREET
JOLIET, ILLINOIS 60432

1 THE COURT: Okay. So we've got 24 MR 100
2 which is Kuse Solar Farm, LLC versus Will County.
3 We also have 24 MR 40, Stuenkel Solar Farm, LLC
4 versus Will County.

5 How do you -- I'll ask the
6 attorneys. How do you propose that you want to
7 deal with the arguments in these? Do you want to
8 do them both at the same time? Do you want to do
9 them sequentially?

10 MR. MCMANAMAN: Yes, Judge, from my
11 perspective I think the issue is the same in both
12 cases.

13 THE COURT: I mean that's my thought.

14 My only concern is I mean I think
15 there is, you know, probably pretty strong
16 likelihood that I'm not going to be the last
17 judge taking a look at this case. If you wanted
18 to argue them separately, that's fine. If you
19 want to argue them together, that's fine as well.

20 MR. RODRIGUEZ: I'm okay with together.

21 THE COURT: Okay.

22 MR. MCMANAMAN: I agree with counsel and the
23 Court.

24 THE COURT: Okay.

1 MR. MCMANAMAN: I think they're the same too,
2 Judge.

3 THE COURT: All right. Very good. Thank you.

4 All right. If you folks want to
5 come up to the lectern.

6 So this is 24 MR 40 and 24 MR 100.
7 The cases are consolidated but they do have the
8 same counsel and the issues are identical.

9 Let's see now, and for the record
10 you are?

11 MR. RODRIGUEZ: Jim Rodriguez on behalf of
12 Stuenkel Solar Farm I and Kuse Solar Farm, LLC.

13 THE COURT: Okay.

14 MR. MCMANAMAN: And good morning, Judge.

15 THE COURT: Good morning.

16 MR. MCMANAMAN: Martin McManaman on behalf of
17 the county in both cases.

18 THE COURT: Okay, and let's see now.
19 Plaintiff, you have the floor.

20 MR. RODRIGUEZ: Yes. Thank you, Judge.

21 So, Judge, this was extensively
22 briefed. I think both sides were pretty thorough
23 in their briefing, but there are some points that
24 I'd like to bring to your attention today --

1 THE COURT: Please.

2 MR. RODRIGUEZ: -- and then obviously take
3 any questions you may have.

4 I think, Judge, first it would be
5 appropriate to set the stage for how this law came
6 to be and these projects were submitted. So, you
7 know, first we have the State law that was passed
8 in 2021 referred to as CEJA, the Climate and
9 Equitable Jobs Act, and, Judge, what that law did
10 was it set forth the State's climate policy and set
11 forth a goal to be at one hundred percent clean
12 energy by 2050, so that's kind of in the
13 background.

14 And then what we have is the law
15 that's at -- in dispute in these two cases which we
16 refer to as the Statewide Solar Siting Act, and
17 that law is 55 ILCS 5/5-12020. So, Judge, that law
18 was passed in January of 2023, and what that law
19 did, Judge, was it amended the Illinois Counties
20 Code, and it amended the Code in a way that amended
21 how solar projects would be approved or and
22 analyzed by the counties.

23 And what it did was it created
24 statewide standards, and the law was created in

1 response to solar projects not being approved.
2 Some counties were just flat out rejecting them.
3 So the State came in and said look, this is our
4 goal. We want to get to this point. We can't do
5 it with the way things are being handled by the
6 counties.

7 So that's why this law was passed,
8 and it created essentially objective requirements,
9 took out discretion from the counties being able to
10 approve or deny projects, and it says if you meet
11 these requirements, you shall approve these.

12 Now the statute goes a little bit
13 further and it does say that you have to meet not
14 only the requirements imposed in the Act but also
15 the zoning order or zoning ordinance that was
16 adopted consistent with the Code if the county had
17 an ordinance.

18 In this, these two cases, Judge,
19 Will County did adopt an ordinance that is
20 consistent with what's required in the Code. And
21 then it goes further to say that you must also meet
22 conditions imposed under state and federal statutes
23 and regulations.

24 As part of, you know, the county

1 codes, Judge, or county ordinance, the law also
2 said you can create this ordinance but it has to
3 be consistent with this Act, and it cannot include
4 requirements that are more restrictive than what's
5 specified in the Act. And it gave the counties
6 some leeway as far as being able to include
7 screening requirements, fence requirements,
8 height requirements on the equipment, noise
9 requirements, but it said you can include these
10 if you'd like, but you can't be more restrictive
11 than the Act.

12 And then it also says you can
13 require them to consult with, you know, the
14 Illinois IDNR, the Illinois Historical Preservation
15 Committee just to make sure that there is no
16 violations or concerns from those committees.
17 So that's what the counties were allowed to do
18 under the Act.

19 Now this, these two projects were
20 then filed after passage of the Statewide Solar
21 Act so it would proceed under those requirements
22 put on by the State.

23 Now, Judge, I don't think that
24 there is any issue here and I didn't see anything

1 in the county's brief where they dispute that these
2 projects satisfied the objective requirements of
3 the Statewide Solar Act, so I don't think that's
4 at issue.

5 I think what the main issue here,
6 Judge, is whether that Statewide Solar Siting Act
7 requires approval if the projects satisfy those
8 requirements set forth in the Act and the zoning
9 ordinance which in this case they mirror each
10 other, or does it still allow the counties to have
11 discretion under other sections of the Counties
12 Code and allow them to really, you know, undergo a
13 traditional special use permit analysis where, you
14 know, you have discretions to deny based on other
15 factors like general welfare, whether it impedes
16 orderly development, you know, impact on property
17 values, things that your Honor may have seen before
18 in other cases similar to this. So I think that's
19 the main question here, Judge, is whether they're
20 still allowed to do that.

21 Our position, Judge, is that the
22 statute is clear and it does not allow for that.
23 It says you shall approve if these objective
24 requirements are met and then the requirements

1 of the statute and then other state, Um,
2 federal -- state and federal statutes and
3 regulations.

4 Now, Judge, the county has seized on
5 that final part of the section (g) where it says
6 the conditions imposed under state and federal
7 statutes and regulations to suggest that that
8 reference means that they can, Um, look at another
9 section of the Counties Code which is 5-12001 and
10 still perform that traditional SUP analysis of
11 whether, you know, it violates or impacts general
12 welfare, impedes orderly development or have other
13 impact on neighbors.

14 Now, Judge, so I think what we then
15 have to do is look at statutory construction and
16 see how do we interpret the statute. First off we
17 think it's clear that the statute plainly states if
18 it meets these requirements, you know, you have to
19 approve it. The other State statutes and
20 regulations that they're referring to are other
21 specific statutes and regulations that refer
22 specifically to solar and that does exist.

23 There is an act, Judge, that's
24 called the Agricultural Impact Mitigation Act.

1 That refers to solar, and, you know, every project
2 that comes through needs to satisfy the
3 requirements of that act as well.

4 Now when you look at statutory
5 construction, Judge, I think the first thing that's
6 important to note is that the zoning power
7 originally rests with the State, and the State has
8 chosen to delegate zoning power to local
9 authorities, either the counties or the
10 municipalities. And in doing so because they have
11 conferred this power upon the municipalities and
12 counties, they have a right to amend those powers
13 and they have a right to take away those powers.
14 And they've done that in the past, Judge, and
15 that's what they've done here.

16 One example of a type of use that
17 counties and municipalities don't have the power to
18 zone would be landfills for instance. Those are
19 decided by a state board. So it's been done in the
20 past. There is uses that have been taken away from
21 the counties and municipalities, and our position,
22 Judge, is what's been done here has been an
23 amendment to how this specific use, solar and wind,
24 are to be determined by the county.

1 Now, Judge, the important note as
2 well I think to raise today is that when looking at
3 statutory construction, if the county's position is
4 adopted, it essentially frustrates the purpose of
5 the Statewide Solar Act. It really renders it
6 meaningless. If the county's position is accepted,
7 then we're reverting back to the traditional SUP
8 analysis.

9 It says if this law doesn't exist,
10 if they're allowed to look at and have discretion
11 to determine whether this violates general welfare,
12 impacts orderly development, has impact on property
13 values, then, you know, this law might as well not
14 have been passed. So, you know, we don't think
15 that that can be allowed under statutory
16 construction principles.

17 Next, Judge, when there is
18 conflicting statutes, you look at the more
19 specific over the general. The Statewide Solar
20 Act is a specific statute that refers to solar
21 and how they're determined or decided on when
22 the SUP request is filed. 12001 is a general
23 statute that talks about, you know, zoning powers
24 of the county generally. And then also, Judge,

1 the Solar Act obviously was passed more recently
2 than 12001, so that should also prevail because
3 it's more recent in its amendment to what was
4 previously passed.

5 And, Judge, I just think, you know,
6 if you really look at this, the main point here is
7 that if we take the county's interpretation and
8 that's how everyone's going to follow this law,
9 then what's the point of the law. You know, it
10 doesn't have any effect at that point if we're
11 stuck with the traditional SUP analysis. This was
12 done to streamline approvals, give objective
13 requirements, and that would not be the case if we
14 adopt the county's interpretation.

15 Now, Judge, the county has suggested
16 we look at the legislative history to see what the
17 legislatures meant when they passed this law and
18 what the intent was. We think it's clear, Judge,
19 on the face what it requires, but if we do look at
20 the legislative history, we think that also
21 supports our interpretation that they're required
22 to pass these if the objective requirements are
23 met.

24 And, Judge, I pointed out several

1 comments that were made by the senators and
2 representatives in the hearing transcripts when the
3 vote was taken for, you know, the Statewide Solar
4 Act and when it passed, and I think the most
5 important thing is to look at what the legislators
6 that were in opposition to this law said. And they
7 made it clear, Judge, that this law would take away
8 local control over solar facility applications and
9 require passage if these requirements were met.
10 They were steadfast in that opinion during their
11 conversations on this, on this bill before it
12 passed.

13 One thing I think is important to
14 note as well, Judge, in the legislative history,
15 there is no mention of the counties retaining
16 discretion to approve or deny these. What's said
17 by the proponents of the bill was that the county
18 is still involved in the process. And that's true,
19 the county is still involved.

20 You know, as I mentioned earlier
21 like landfills, the county is completely out of
22 that. You know, that was given to a state board.

23 Here the counties are still
24 involved. They're required to have a hearing,

1 take testimony, and they're the ones ultimately
2 that make the decision.

3 And like said in the discussion by
4 the legislators, they make the ultimate decision.
5 They're really determining if the project meets the
6 objective requirements. The State is not doing
7 that.

8 So they're still involved. They
9 have some control. But as was said by the
10 legislators, they're controlled with guardrails
11 put in place. That's what the term they use was
12 guardrails.

13 So I think that if you look at the
14 legislative history in conjunction with the actual
15 language in the statute, it's clear here that our
16 position, you know, is proper and that if these
17 projects meet the objective requirements, they
18 shall be passed.

19 And then, Judge, when you look at
20 the actual decisions made by the county on both of
21 these projects, it's our position that they were
22 unreasonable and arbitrary.

23 You know, I pointed your Honor to
24 in the briefs to comments by the board members

1 during deliberations on these two matters, and
2 there are some transcripts that didn't have
3 minutes or didn't have actual transcripts, so we
4 don't have the complete record, but from what we
5 have it shows that what the county board members
6 did was mainly cast a protest vote. They were
7 upset at the State.

8 You know, and they may be
9 justified in being upset with the State. Zoning
10 powers have been local, and this does change what
11 they're allowed to do and they voiced that
12 frustration.

13 But what they didn't do, Judge, is
14 they didn't even analyze whether these projects met
15 the requirements that are now set forth in the
16 siting law plus their own ordinance, Judge, that
17 adopted those requirements. There is no discussion
18 about that in their discussion deliberations and
19 then ultimately their decision. It's just we can't
20 let the State do this to us. You know, we have to
21 hold firm.

22 I believe one of the board members
23 said I'm going to vote no for every one of these,
24 and, you know, we have to push back against the

1 State, and that was essentially the conversation of
2 the board members.

3 And then, you know, finally, Judge,
4 there wasn't -- you know, if you were to hold they
5 can still have discretion and look at, you know,
6 essentially like the LaSalle Factors, they didn't
7 even discuss those on the record. There were no
8 findings that they determined that, you know, any
9 of those LaSalle Factors were not met by these
10 projects.

11 So it's our position that under
12 this law they should not even do that, but, if,
13 you know, if that's determined to be the case,
14 then they didn't even make any decisions about
15 whether that -- those factors were met or not.

16 There really was no substantive
17 review of the testimony of the objectors. You
18 know, did those objectors, neighbors to those,
19 their testimony have any merit? You know, the
20 testimony of the applicants, did their testimony
21 have any merit? It really, Judge, was just we
22 can't allow the State to do this. We have to
23 vote no.

24 So, Judge, that's kind of a

1 summary of, you know, what was contained in the
2 brief. You know, we would ask that the Court
3 reverse the finding of the county, approve
4 these projects as the testimony shows that the
5 projects both met the requirements of the State's
6 siting law, and we'd ask that the county be
7 directed to execute an ordinance approving the
8 projects.

9 THE COURT: You know, Mr. Rodriguez, I've
10 read everything in this case. I've got I think
11 a couple of other of these solar farm cases, and
12 I said this last week in another case. You're
13 making the exact -- you're saying exactly the
14 same thing that the minority and the legislature
15 said when this bill -- when the bill was being
16 debated. They said -- they essentially said you
17 are taking all of the discretion out, essentially
18 eliminating local control except for a few fringe
19 elements.

20 MR. RODRIGUEZ: Yes.

21 THE COURT: You're making exactly the same
22 argument.

23 In fact, you know, one of the other
24 cases I have pending they're saying -- they've

1 actually taken a more extreme position than your
2 clients have. They said this is a mandamus
3 issue --

4 MR. RODRIGUEZ: Sure.

5 THE COURT: -- and there really isn't
6 anything left, anything of consequence left for
7 county boards or municipalities to do in this
8 situation.

9 MR. RODRIGUEZ: Yes, Judge, you know, I would
10 agree with that sentiment. I mean if you look at
11 what the minority and the legislature said, that's
12 important. You know, they were afraid that if this
13 bill passed, this is what would happen, so it's
14 clear what the intent was of this bill.

15 And, you know, I do think that the
16 county still has a role here. Like the supporters
17 of the bill said, ultimately they have to determine
18 whether these projects meet those requirements that
19 are set forth in the State, so -- in the State law,
20 so I think they do have a role, and in this, you
21 know, these two cases, Judge, I think they just
22 didn't perform that role.

23 THE COURT: Okay. Thank you.

24 Mr. McManaman.

1 MR. MCMANAMAN: Thank you, Judge.

2 So it's true this is -- this case
3 presents an issue of statutory interpretation.
4 The county sees it a different way.

5 The statute at issue is that
6 section 12020, and we, the plaintiffs are arguing
7 the statutes eliminated all county discretion.
8 We think that's wrong according to both the plain
9 language of 12020 and its legislative history.

10 Section 12020 contains more than
11 just a list of objective measures. It also
12 provides that counties can treat solar facility
13 projects as special uses for permitting purposes,
14 and that's in subsection (c). That's important
15 because special use permits or SUP's by their
16 nature involve consideration of factors beyond
17 objective specifications.

18 Plaintiffs argue that consideration
19 of any factor or measure that's not specified in
20 the four corners of 12020 is improper and contrary
21 to that section, but that's belied by the plain
22 language of the statute, especially the subsection
23 that counsel referred to, subsection (g). And
24 that's highlighted in our brief, Judge, and that

1 subsection has three sentences, and each is
2 important to understanding a county's authority and
3 discretion.

4 The first sentence of
5 subsection (g) says that counties cannot place any
6 restrictions on solar facilities unless they adopt
7 an ordinance that complies with section 12020.
8 So the clear implication of that language is that
9 counties can impose restrictions as long as the
10 county also has an ordinance that complies with the
11 statute, so it's possible. And in effect, Judge,
12 the plain language from that very first sentence in
13 subsection (g) contemplates a situation where a
14 county has a local ordinance that imposes
15 restrictions and at the same time is compliant with
16 the statute.

17 The second sentence says that
18 counties can't have siting standards that create a
19 blanket exclusion, and for the reasons that counsel
20 mentioned that was a problem, and I think it was
21 one of the reasons that led to the legislative
22 action in Public Act 10381.

23 But Will County's ordinance complies
24 with that language, and that ordinance, Judge, is

1 155-9.245. It's attached as an exhibit, and it
2 provides that solar facilities can be sited in four
3 types of zoning districts in Will County.

4 That provision is not just lip
5 service. Since January, 2023 when the amended
6 version of 12020 went into effect, Will County has
7 received 39 applications for solar projects. 20
8 of those have been approved, 6 have been denied,
9 and 13 have been withdrawn before it reached a
10 decision.

11 So in Will County -- I mean and
12 I can't speak for the rest of the State, and I
13 understand that the general assembly has to be
14 concerned with what goes on across the whole State
15 and not just in an individual county, but in Will
16 County they're -- they've approved just over half
17 of the total applications. This isn't a situation
18 where their ordinance is a blanket exclusion, and
19 that's true going back even before 2023 when the
20 amended version of 12020 became effective.

21 And if you take out the
22 withdrawals, the applications that have been
23 withdrawn before they reach a final decision by
24 the county board, the county board is approving

1 solar projects at slightly better than an 80
2 percent clip since 2023. So the legislature's
3 concern about a blanket exclusion just doesn't
4 fit here in Will County.

5 And the third sentence in
6 section 12020(g), Judge, says counties must approve
7 an SUP for a solar facility and that's stated in
8 the mandatory if the application applies with three
9 things. So it's stated in the mandatory but there
10 is three conditions placed on it.

11 The first one is the standards and
12 conditions in this Act with a capital A on Act.
13 The second one is the zoning ordinance adopted in
14 compliance with this Code ,and the Code has a
15 capital C, and then the third one is a general
16 catchall, conditions imposed under state and
17 federal statutes and regulations.

18 And, Judge, I want to focus the
19 Court's attention on the first two conditions
20 because the use of the terms Act with a
21 capital A and Code with a capital C make -- it
22 makes clear that counties are not limited to
23 considering the objective measures set forth in
24 12020. They -- they're also -- they're also

1 allowed to refer and consider things that are in
2 the rest of the Counties Code as long as those,
3 those considerations are in that county's zoning
4 ordinance.

5 And, you know, since we're talking
6 about a matter of statutory interpretation, we have
7 to look at the specific language that the
8 legislature used. They used two different terms,
9 the Act and the Code. There has to be a reason for
10 that. At least that's what the rules of statutory
11 construction say. And so the difference is that
12 the Act is just section 12020 because when the
13 statewide, Statewide Siting Act was passed, that's
14 Public Act 103-81, it only amended a single
15 statutory provision and that's section 12020.
16 There is nothing else in that Act.

17 The Code with a capital C by
18 contrast is the Counties Code. It's the entirety
19 of Title 55 of the Illinois Compiled Statutes.
20 Now obviously a lot of that title doesn't apply,
21 but the parts that do apply are the entirety of
22 division 5-12 because that's the zoning part of
23 the Counties Code.

24 So when the legislature enacted or

1 the amendment to 12020, they specifically
2 incorporated language and use language that said we
3 also want it to be consistent with the rest of the
4 Counties Code. And that's consistent with what
5 they said in subsection (c) of 12020 where they
6 said that these solar projects should be considered
7 by counties as special uses and that the special
8 use permitting process can be used and because the
9 special use permitting process is covered in
10 another section of the -- of division 5-12, and
11 that is 12001.

12 Now the plaintiffs argue that
13 12001 is inapplicable to the context of solar
14 facilities because solar facilities are more
15 specific, but that interpretation has to be wrong
16 because it would render the reference to the
17 rest of the Code in subsection (g) of 12020
18 meaningless. And that's another rule of statutory
19 construction is that statutes are not supposed to
20 be interpreted in a way that renders part of them
21 meaningless.

22 If the legislature intended for a
23 county's ordinance to comply with 12020 only and
24 not with any other part of division 5-12, then the

1 legislature could have easily stated as much by
2 using the term Act with a capital A a second time
3 in the second condition of the last sentence in
4 subsection (g), but they didn't do that.

5 They used the term Code with a
6 capital C intentionally referring to statutory
7 provisions apart from 12020, and in doing so the
8 legislature was acknowledging that a county's
9 ordinance may contain more than just the list of
10 objective measures set forth in 12020 and may
11 contain other considerations that are set forth in
12 the other sections of 5 -- or of division 5-12
13 including 120001 or 12001.

14 And this language is not
15 inconsistent. It's not internally inconsistent
16 with the rest of section 12020, Judge. So while
17 there is a rule of specific over general in the
18 rules of statutory construction, it doesn't apply
19 here because there is no conflict. The statute can
20 be read in harmony with the rest of 12020 and with
21 the rest of division 5-12, and --

22 THE COURT: Explain that for me how those two
23 are -- can be read so that they do not conflict.

24 MR. MCMANAMAN: So this is how, Judge. If the

1 legislature says you have a zoning ordinance and it
2 has to be -- as long as the project is consistent
3 with the county's zoning ordinance that applies the
4 rest of the Code, that's consistent with that part
5 of subsection (g). That specifically intends by
6 referring to the rest of the Code, it intends to
7 incorporate those other sections, and so does
8 subsection (c) that says counties, treat these as
9 special uses, review them for permitting purposes
10 as special uses. So it's okay for you to consider
11 those traditional factors or considerations that
12 are set forth in 120001.

13 THE COURT: That to me neuters the legislation
14 because it seems to me the -- what the State passed
15 this was what, last year?

16 MR. RODRIGUEZ: '23, Judge.

17 THE COURT: '23, okay, two years ago
18 essentially is a list of boxes that need to be
19 checked, and that's the only role the county board
20 has or planning and zoning, the land use is to tell
21 the county board whether these boxes have been
22 checked or not and that's the inquiry.

23 So I know you disagree with that,
24 but tell me why I'm wrong by saying that's the

1 only role they have.

2 MR. MCMANAMAN: Well, because that's not,
3 that's not the only role they have, Judge.
4 I mean and part of that is shown from the
5 legislative history, and I'd like to get to that
6 in a second.

7 THE COURT: Okay. All right.

8 MR. MCMANAMAN: But one other thing I'd like
9 to say about 12020 itself, the plain language is
10 that 12020 (c), subsection (c) also provides for a
11 public hearing. So one of the questions is why
12 would the legislature if it intended to remove all
13 discretion say counties, you can treat these as
14 special uses for permitting process, use that
15 process, have a public hearing, take public
16 comment, listen to that public comment and then
17 make a decision if you're not going to factor the
18 public comments in?

19 But the legislature did that
20 because they wanted -- what they wanted to make
21 sure, Judge, is that counties were not setting
22 forth or enacting ordinances that just said okay,
23 here is the setback requirements, here is the
24 solar panel height requirements, glare and noise

1 requirements that make it just impossible for
2 anybody --

3 THE COURT: Sure.

4 MR. MCMANAMAN: -- to ever have a solar farm
5 anywhere --

6 THE COURT: Yes.

7 MR. MCMANAMAN: -- even if it was 30 miles
8 away from the next human. But that's not -- that's
9 never been the case in Will County and that's not
10 what -- that's not what the statute actually
11 accomplished in the end.

12 And so that leads me to the
13 legislative history, Judge, and I under -- I
14 appreciate the Court's comments before about the
15 difference between the minority, the minority
16 group in the house and the senate and then the
17 sponsors. And my take on that, Judge, is that I
18 agree. You know, the debates are clear. The
19 people said what they said, and the minority
20 people that had concerns were saying exactly what
21 the Court summarized.

22 We're worried that if we enact
23 this statute as it's written, all local discretion
24 will be gone. But I think the key, Judge, is how

1 the sponsors react, responded to that. They said
2 no, no, no, that's not true. So they said yes,
3 there is guardrails. That's what's intended, you
4 know. Okay. Well, what do guardrails mean?
5 Guardrails mean that there is an area of room in
6 between the guardrails for counties to make
7 decisions.

8 And I mean if it was just hey,
9 you know what, 12020, the amended version is going
10 to be a list of boxes, and as long as they're
11 ticked or checked, that's it, we're sorry. That's
12 not what the sponsor said in response. They
13 didn't -- there was no -- there was no amendment
14 to the text after those debates.

15 So their response to the concerned
16 legislators was guys, don't worry, there is still
17 some discretion. It's just not going to be --
18 we're just putting, you know, a framing on it,
19 setbacks, height, glare, noise, but there is still
20 going to be this process where the local
21 authorities can make their decisions.

22 In line with that expectation the
23 county's solar facilities ordinance adopts an SUP
24 process for such projects. That's in 9- -- I mean

1 9.245, and the first sentence of that ordinance,
2 Judge, refers to the special use permit ordinance
3 which is 16.40, and that sets forth the procedures,
4 and those procedures include considerations that
5 are consistent with 120001. So if Will County's
6 ordinance is consistent with the statute, then
7 those, those considerations of public welfare,
8 orderly building development are proper
9 considerations.

10 You know, the last thing I'd
11 like to address, Judge, is, you know, the
12 argument about the board's reasoning for its
13 denials. It's true the records -- the board
14 members did not express their concerns about
15 plaintiff's specific projects at the county
16 board member -- county board meeting, but those
17 concerns were raised and discussed in the earlier
18 phases of the process, namely the planning, zoning,
19 planning and zoning committee meeting and the land
20 use development committee meeting.

21 This Court reviews special use
22 permit decisions under a due process standard
23 which effectively requires a rational basis for
24 the county's decision. Here the records in both

1 cases contain ample, ample information indicating
2 concerns that the proposed projects would conflict
3 with the comprehensive plans of Green Garden
4 Township and the Village of Frankfort and concerns
5 relating to public welfare including property
6 values, fire hazards, soil pollutants and
7 contaminants and neighborhood aesthetics.

8 So importantly the county did not
9 impose any greater conditions or restrictions than
10 those allowed in section 12020, and they didn't
11 deny the projects because the setbacks weren't big
12 enough or because the solar panels would be too
13 high. Instead the board denied the special use
14 permits based on concerns about public welfare and
15 orderly building development. So for that reason
16 the county board's decision should be affirmed.
17 Thank you very much.

18 THE COURT: What's -- when do we look at the
19 legislative comments? When does that even become
20 relevant because to me the statute is clear?

21 MR. MCMANAMAN: Well, what the case law says,
22 Judge, is that legislative history is an aid if
23 there is an ambiguity in the plain language of the
24 statute.

1 THE COURT: Okay. All right. I just think
2 it's ironic that, you know, the plaintiff here is
3 saying exactly what the minority said.

4 Okay. Mr. Rodriguez.

5 MR. RODRIGUEZ: Yes, Judge, not much to
6 follow up on.

7 THE COURT: Sure.

8 MR. RODRIGUEZ: I just do want to point out
9 that, you know, again the argument about
10 consistent with the rest of the Counties Code,
11 you know, I think, Judge, the main purpose as I
12 said earlier of this Act was to require or set
13 forth statewide standards that could be applied
14 objectively so that the State could meet the 2050
15 goal. And if that interpretation is allowed, then
16 we're stuck with the same old analysis we've always
17 had, and that's also one of the reasons why these
18 were not getting approved. It's not just counties
19 just blanket exclusions. It was projects where the
20 counties were exercising their discretion to deny
21 them.

22 And then, Judge, as far as the
23 other sections of the Code, you know, the 12020
24 also says that you can't adopt an ordinance that

1 has requirements that are more restrictive.
2 Discretionary requirements are inherently more
3 restrictive than objective requirements, and if
4 you go back to the legislative history, there is
5 no discussion at all in there about the counties
6 maintaining discretion.

7 The proponents of the bill as I said
8 earlier just describe the process that the counties
9 will still be involved with, but they don't say
10 that yeah, you can consider the general welfare,
11 you can use your discretion. It just says you're
12 involved in the process. You determine ultimately
13 if projects are approved. You get to issue
14 building permits. You can require drainage
15 permits.

16 So that's their involvement with the
17 process. You know, they're not out of it, but they
18 have the guardrails, and guardrails to me mean if
19 it meets this, within this, you have to pass it,
20 and how is that applicable if you have discretion
21 on factors such as general welfare, impeding
22 orderly development? That goes beyond guardrails,
23 Judge.

24 So again I would ask that if the

1 interpretation of the statute is as we've
2 presented, then it's clear that the board did not
3 make a reasonable decision. It was unreasonable
4 and it was arbitrary, and we would ask that it be
5 overturned.

6 THE COURT: Okay. My understanding is there
7 is nothing pending before any appellate court in
8 the State on this legislation right now.

9 MR. RODRIGUEZ: It's my -- yes, it's my
10 understanding as well.

11 THE COURT: Okay.

12 MR. MCMANAMAN: Mine too, Judge.

13 THE COURT: Okay.

14 Any interpretation from any other
15 trial courts that you're aware of?

16 MR. MCMANAMAN: I am not, Judge.

17 MR. RODRIGUEZ: I'm not aware of that either,
18 Judge.

19 THE COURT: So the two of you are probably
20 the most knowledgeable people in the State thanks
21 to your clients.

22 MR. MCMANAMAN: That's scary.

23 MR. RODRIGUEZ: Yes.

24 THE COURT: Okay. All right.

1 MR. MCMANAMAN: Yes, my understanding, Judge,
2 just real quickly is that there have been other
3 cases in other counties, but I don't believe any
4 of them have reached a decision.

5 THE COURT: Okay.

6 All right. It's going to take some
7 time before I have a decision for you, and I have
8 a -- there are a number of cases ahead of you that
9 are taken under advisement, and as I indicated
10 earlier, I'm supposed to have a pretty lengthy
11 trial, jury trial in May.

12 Let's do this. I'll give you a
13 date during the first week of July but I'm not sure
14 I'm going to be able to meet it, okay, just for
15 status as to the decision.

16 MR. RODRIGUEZ: Sure.

17 THE COURT: Okay.

18 And can I make suggestion? If
19 you order a transcript of the argument today,
20 okay --

21 MR. MCMANAMAN: Sure.

22 THE COURT: -- because if I don't touch this
23 for another 30 to 45 days, I'm going to -- it would
24 be nice to have a transcript.

1 MR. RODRIGUEZ: Absolutely.

2 THE COURT: I mean I -- I'm going to use it
3 no matter what, okay?

4 MR. RODRIGUEZ: Yes.

5 THE COURT: It won't be a waste of anyone's
6 money. Perhaps --

7 MR. RODRIGUEZ: Sure.

8 THE COURT: Perhaps you folks can split the
9 cost of it.

10 MR. MCMANAMAN: Sure, we'll work it out.

11 MR. RODRIGUEZ: Yes.

12 MR. MCMANAMAN: And I can facilitate it.

13 THE COURT: Okay.

14 MR. RODRIGUEZ: Yeah.

15 THE COURT: All right. Then let's go to
16 July 7th then. July 7th at 9:15 for status as to
17 a decision.

18 MR. MCMANAMAN: Okay.

19 MR. RODRIGUEZ: That works for me, yeah.

20 THE COURT: You do not need to be physically
21 present here. You can log in on Zoom, and I will
22 probably get you something by way of an email
23 ahead of time about where I'm at on it.

24 MR. RODRIGUEZ: Great.

1 THE COURT: Okay. All right. Thank you very
2 much. You've both given me an awful lot to think
3 about here.

4 MR. RODRIGUEZ: Thanks for your time,
5 Judge.

6 MR. MCMANAMAN: Judge, just one quick
7 question.

8 THE COURT: Yes.

9 MR. MCMANAMAN: With respect to the
10 transcript, will you get notice that it's
11 prepared or do we need to send it to you?

12 THE COURT: They'll give me notice. If you
13 tell them to give me notice, they will.

14 MR. MCMANAMAN: Sure.

15 THE COURT: I mean I think you'd be ordering
16 that through Jenny Danley.

17 MR. MCMANAMAN: Right.

18 THE COURT: And they'll give me notice. So
19 you tell them they just -- and actually they can
20 email it to me.

21 MR. MCMANAMAN: Sure.

22 MR. RODRIGUEZ: Correct.

23 THE COURT: They have my email address, and
24 if you give them the direction, they'll get it to

1 me.

2 MR. MCMANAMAN: Great.

3 MR. RODRIGUEZ: Great.

4 THE COURT: Okay.

5 MR. MCMANAMAN: Okay.

6 MR. RODRIGUEZ: Thank you, Judge.

7 THE COURT: Thank you very much.

8 MR. MCMANAMAN: Thank you, Judge.

9

10 (WHICH WERE ALL THE
11 PROCEEDINGS HAD IN
12 THIS CAUSE ON THIS DATE.)

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1 THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
2 WILL COUNTY, ILLINOIS

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6 I, TAMMY M. MAIER, an Official Court
7 Reporter for the Twelfth Judicial Circuit of
8 Illinois, do hereby certify that the foregoing
9 Report of Proceedings was electronically recorded
10 and is a true, correct, and complete transcript so
11 taken at the time and place hereinabove set forth
12 to the best of my ability based on the quality of
13 the electronic recording.

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23 DATED this 2nd day

24 of MAY, 2025.

Tammy M. Maier

OFFICIAL COURT REPORTER