

Plunkett Cooney helps municipality preserve environment along Lake Michigan's coastline

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Plunkett Cooney successfully defended a Michigan municipality that was sued for over \$80 million by a Texas energy company seeking to build a huge coal-fired power plant on an inland lake that overlooked, and was connected to, Lake Michigan.

The plaintiff sought a permit from the city to allow construction and operation of a coal-fired 400-megawatt power plant on the inland lake. The power plant would have had a smoke stack that was over 70 feet high and would have burned tons of coal every year to generate electricity. The city hired numerous consultants to provide opinions on various aspects of the proposal and held hundreds of hours of hearings during the permit review process. Ultimately the city denied the permit application, finding that the power plant would have an adverse impact on the surrounding area.

The plaintiff filed suit in federal district court, alleging that the city's denial violated the developer's constitutional rights under the due process and equal protection clauses. The plaintiff retained a firm that devoted a team of attorneys to aggressively pursue the claim against the city. Plunkett Cooney attorneys and experts in land use, Michael Bogren and David Otis, were retained to defend the city.

The firm's expertise in defending municipalities against claims of this type is well known throughout the state. Plunkett Cooney aggressively countered the plaintiff's discovery tactics and worked closely with the city's administration and council in defending the city's position.

The case was ultimately dismissed by the federal district court, which granted the motion for summary judgment filed by Plunkett Cooney on the city's behalf. The federal court agreed that the city's decision denying the permit was rational, was reached after significant deliberation on the facts presented, and did not violate any of the plaintiff's constitutional rights. The developer chose not to appeal the court's decision in favor of the city.