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Delray Beach City Attorneys Void Waste Management Contract

**JAMIE ALAN COLE,
MATTHEW MANDEL
AND ANTHONY SOROKA**
Weiss Serota Helfman
Cole Bierman & Popok

When Delray Beach needed help battling its biggest contractor on a deal potentially worth more than \$65 million, it brought in Weiss Serota Helfman Cole Bierman & Popok, a law firm that had already faced off with Waste Management Inc.

Commissioners believed Waste Management violated procurement rules by bypassing a second round of competitive bidding to turn a 10-year contract into an 18-year deal with multiple renewal options and a hefty price tag for taxpayers.

"The most important thing is that the procurement process is defended and respected," said Jamie Alan Cole, Weiss Serota's managing director. "This sends a message that the rules need to be followed. There are regulations, and those



Cole



Mandel



Soroka

regulations have to be followed. Vendors need to know what those rules are and make sure that the government follows them, or they're operating at their own risk." Waste Management held the city's biggest contract after competitive bidding in 2003. That contract had a five-year term and one five-year renewal option. A year before the agreement expired, the disposal company secured an eight-year extension with additional renewals by mutual agreement.

City regulations require competitive bidding on projects likely to cost

the city more than \$15,000. But Waste Management argued the extension would come at no cost to the city because sanitation fees fund the trash collection service.

A new City Commission disagreed and recruited

Weiss Serota to handle the complex commercial litigation. The law firm litigated against the garbage hauler in Miramar and led Hallandale Beach to an arbitration award in a multimillion-dollar dispute over a recycling and composting contract.

"Our track record with Waste Management probably led them to us," said Cole, city attorney for Weston and Miramar and special litigation counsel for several municipalities in Palm Beach and Broward counties.

Cole and Weiss Serota partner

Matthew Mandel led the litigation, while associate Anthony Soroka handled legal strategy. In March, the trio succeeded in winning a judgment that voided the contract, allowing the city to open the process to additional vendors.

Waste Management agreed not to appeal and has the option to participate in the new bidding. It will continue to provide services until the end of the selection process and cover the city \$130,000 in attorney fees and costs.

"If the city had gone ahead with the additional extensions, it could cost far more than \$65 million," said Mandel, chair of the firm's litigation department. "But as a result, the contract is now gone and the city is able to find a new bidders and hopefully save taxpayers money."

The city's still reviewing proposals.

"They got four responses back, and the lowest responsive bidder would offer a savings of about 25 percent," Cole said. "That would be at least a million in savings. And Waste Management's new bid is 18 percent lower."