

## LETTER TO THE EDITOR

### SENATOR MARTINS PRESENTS FALSE CHOICE TO BROOKVILLE COMMUNITY

Jennifer Corr's April 1, 2024 article, "Residents Express Concern Over Arsenic Pollution," reported that Brookville residents are deeply concerned over the remedial options to clean up soil contaminated from fertilizers used at the Tam O' Shanter golf course property (aka Grandview Estates). According to the article, NYS Senator Jack Martins, as counsel to the developer, presented two options to remediate the soil to village residents. Plan A has the County Department of Health requiring the removal and disposal of 135,000 cubic yards of soil to be replaced with clean topsoil. According to Martins, "the impacts of this process on the community would be significant, considering the number of trucks that would be involved." Plan B, as presented by Martins, would involve "milling in place or tilling in place." Plan B would essentially leave the arsenic in the soil, but move it around until it is diluted enough so that it is under regulatory target levels.

But Martins is offering a false choice. It is a false choice because there are ways to mitigate the traffic and other impacts of soil removal cleanup. For example, truck traffic can be required during non peak hours, trucks can be mandated to use clean burning fuels, covering of the soil in the trucks can be required, etc. There are basic safety practices

that have been used for decades that can mitigate the impact. Soil removal - partial or full - is not a new remedial process. And most importantly, soil removal has been widely acknowledged as the only technique that removes contaminants to prevent exposure into the future. The dilution of pollutants, while it is cheaper, is inferior, and should not be the preferred choice for long-term protection of the community.

Once you understand Martins' false choice, as a practical matter, why would anyone want to leave potential contaminants in place in this community?

Also, there appears to be a lack of transparency. Village of Brookville Attorney John M. Chase said that the County Department of Health is the sole agency that has jurisdiction over the cleanup. In fact, an application is pending at the New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program, which if accepted will put the NYSDEC and NYS Department of Health in charge of regulatory decision-making. According to the article, "Martins stated that the applicant and developer have been approved for brownfield tax credits (BTCs) by the NYSDEC." So Martins knew about NYSDEC involvement, but let residents think this is purely a County Health Department matter. Also, he is not accurate. By statute, the only

way to get BTCs is by securing sign-off via the NYSDEC Brownfield Cleanup Program, so the BTCs are not yet in place for this project. Moreover, shouldn't public funds - the tax credits - ensure long-term protection?

Senator Martins' role as developer's counsel raises significant questions, including whether Martins is conflicted, whether he is being transparent with the community, whether he is purposefully offering a false choice to Brookville residents, and whether he understands how the NYSDEC Brownfield Cleanup Program and BTCs work. Martins' presentation to the community is disingenuous at best, and purposeful

obfuscation at worst.

—Written by Jody Kass. Jody Kass is a semi-retired long-time resident of Great Neck, who helped lead the creation of the NYSDEC Brownfield Cleanup Program. Kass served on Gov. Pataki's Superfund Working Group. She also created and coordinated the Pocantico Roundtable for Consensus on Brownfields and co-lead the Brownfields Coalition, an association of over 100 diverse organizations who came together in support of the legislative proposal that emerged from the Pocantico Roundtable and was ultimately instrumental in securing passage of the landmark 2003 NYS Brownfield Law.



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