



## **Newark Rescinds Storage Container Ordinance**

To settle a lawsuit brought by logistics industry plaintiffs, the City of Newark agreed to rescind its Container Storage Ordinance. You may recall that in June 2024, Newark adopted revised Ordinance 6PSF-a, which amended the municipal code to regulate off-port intermodal container businesses. The ordinance mandated that operators storing shipping containers within city limits obtain a license, submit monthly reports, maintain proposed safety standards, and pay fees based on container volume and their duration at the site. The Ordinance contained different levels of fees, but failure to comply would be met with strict enforcement guidelines carried out by the Division of Tax Abatement and Special Taxes. These mechanisms included expensive fines, as well as license suspension or revocation.

The ordinance was quickly challenged in court by a group of Newark-based intermodal and freight businesses (Ironbound Intermodal Industries, INC., Ironbound Express, INC., Container Services of New Jersey, INC., Marine Transport, INC., Daybreak Express, INC., and 1111 Delancy Street LLC). The plaintiffs argued that the ordinance was legally invalid on multiple grounds. First, they claimed it functioned as an unauthorized tax in violation of New Jersey law because the fees imposed served as a revenue generating measure, rather than being tied to the cost of regulation. Second, they alleged the ordinance was arbitrary and capricious, enforcing unfair requirements to off-port operations while exempting Port Authority tenants. The complaint also claimed that the ordinance was in violation of the Commerce Clause due to interference with interstate and foreign trade. Finally, the plaintiffs argued that they were denied equal protection under both the U.S. and New Jersey Constitutions.

After a few months of litigation, the City of Newark agreed to abandon the Ordinance. While a new revised Ordinance could be introduced in the future, we congratulate the plaintiffs on a great victory.

For further information, contact James M. Burns, Esq. [jburns@genovaburns.com](mailto:jburns@genovaburns.com)