

No. 127126

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**IN THE SUPREME COURT OF ILLINOIS**


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ILLINOIS ROAD AND TRANSPORTATION )	
BUILDERS ASSOCIATION, FEDERATION OF )	Appeal from the Illinois
WOMEN CONTRACTORS, ILLINOIS )	Appellate Court, First
ASSOCIATION OF AGGREGATE PRODUCERS, )	District, No. 1-19-0396
ASSOCIATED GENERAL CONTRACTORS OF )	
ILLINOIS, ILLINOIS ASPHALT PAVEMENT )	
ASSOCIATION, ILLINOIS READY MIXED )	
CONCRETE ASSOCIATION, GREAT LAKES )	
CONSTRUCTION ASSOCIATION, AMERICAN )	
COUNCIL OF ENGINEERING COMPANIES )	
(ILLINOIS CHAPTER), CHICAGOLAND )	
ASSOCIATED GENERAL CONTRACTORS, )	There heard on appeal from
UNDERGROUND CONTRACTORS )	the Circuit Court of Cook
ASSOCIATION OF ILLINOIS, and ILLINOIS )	County, Chancery Division,
CONCRETE PIPE ASSOCIATION, )	No. 2018-CH-02992, Hon.
	Peter Flynn, Judge Presiding
Plaintiffs-Appellants, )	
	)
v. )	
	)
THE COUNTY OF COOK, a Body Politic and )	
Corporate, )	
	)
Defendant-Appellee. )	

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***AMICUS CURIAE* BRIEF OF THE ILLINOIS CHAMBER OF COMMERCE  
IN SUPPORT OF PLAINTIFFS-APPELLANTS**


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**INTEREST OF THE *AMICUS***

The Illinois Chamber of Commerce (the “Chamber”) is an association that focuses on improving Illinois’ business climate to encourage job creation, job retention, and overall economic growth. Since 1919, the Chamber has been the unifying voice for Illinois industry, advocating for a business climate that allows Illinois businesses to thrive. The Chamber’s members include roadbuilders, manufacturers, railroads, insurers, healthcare providers, retailers, banks, and a host of other industrial and commercial concerns that contribute to the State’s demand for well-maintained infrastructure, and which require regulatory stability and certainty to succeed.

Given the Chamber’s long history of business advocacy and its status as a unifying voice for the Illinois business community, it can assist the Court in exploring and appreciating the impact of the Court’s rulings on Illinois businesses. This unique perspective has been recognized multiple times by the Court in other cases, when the Court has permitted the Chamber to file *amicus curiae* on matters that will affect Illinois businesses. *See, e.g., Rosenbach v. Six Flags Ent. Corp.*, 2019 IL 123186, ¶ 16, *State ex rel. Schad, Diamond & Shedden, P.C. v. My Pillow, Inc.*, 2018 IL 122487, ¶ 1, *Hertz Corp. v. City of Chicago*, 2017 IL 119945, ¶ 10, *Carney v. Union Pac. R. Co.*, 2016 IL 118984, ¶ 15.

The Chamber and its members have a substantial interest in this case for multiple reasons. The Chamber’s members contribute substantial sums to the maintenance and development of Illinois’ infrastructure by paying taxes that are subject to the Transportation Taxes and Fees Lockbox Amendment (the “Safe Roads Amendment”). Those same members rely on Illinois infrastructure to grow their businesses and to serve

customers and counterparts. As a result, the scope of the Safe Roads Amendment, and the resultant funds made available to invest in Illinois' infrastructure, are questions that strike at the core of the Chamber's mission—protecting and encouraging the continued vitality of the Illinois business community.

Moreover, many of the entities which comprise the Chamber, and untold number of Illinois residents who rely on Chamber-associated businesses, call Cook County home—they pay the taxes at issue in this appeal and rely on Cook County's infrastructure as part of their daily lives. For that reason, the answer to the question raised in this appeal will have a direct and significant impact on the Chamber, its members, and the innumerable Illinoisans whose daily lives are impacted by Chamber-affiliated businesses.

### **BACKGROUND**

A May 2013 audit of the Road Fund concluded that, from Fiscal Year 2003 through 2012, less than half of the State's Road Fund expenditures, 45.3%, went to direct road construction costs. *Management Audit of Road Fund Revenue and Expenditures*, p. 35, Illinois Auditor General, available at <https://perma.cc/B2N4-UNSZ>. From 2002 through 2016, approximately \$6.8 billion dollars were diverted out of the State's Road Fund, Construction Account, and other transportation funds to be used on other expenses. Frank Manzo IV, *Better Roads Ahead, Vote YES on the Illinois Transportation Funds Amendment*, p. 7, Illinois Economic Policy Institute (Jul. 18, 2016), available at <https://perma.cc/PX2A-QMXW>. The economic impact of these diversions is equally substantial—one estimate calculated that a net 4,747 jobs were lost between 2002 and 2015 as a result, and the State's economic activity was hindered by approximately \$3.2 billion and helped grow a \$43 billion transportation funding deficit in Illinois. *Better Roads Ahead, Vote YES on the Illinois Transportation Funds Amendment* at 4, 7.

As a direct result of these harmful economic trends, the Chamber became a principal supporter of the Safe Roads Amendment and encouraged its adoption in order to help Illinois businesses and residents benefit from the certainty and productivity provided by a properly funded infrastructure system. However, despite the overwhelming support for the Safe Roads Amendment from Illinois voters, Cook County has refused to comply with this new constitutional mandate. Unfortunately, the Chamber's numerous members throughout the State continue to suffer from the ongoing infrastructure crisis in Cook County, caused in large part by the County's interpretation that the Safe Roads Amendment does not apply to it. Without a ruling that the Safe Roads Amendment applies to all of Cook County's transportation-related taxes, the purpose of the Safe Roads Amendment will be frustrated in the State's largest economic center, and the infrastructure crisis will continue unabated.

## ARGUMENT

### **I. Cook County's mismanagement of its infrastructure has created a system in dire need of repair.**

The demand placed on Cook County infrastructure is immense. During any 24-hour workday, more than 19 million trips are taken by Cook County residents, all of which utilize Cook County infrastructure. *Connecting Cook County, 2040 Long Range Transportation Plan*, p. 8, Cook County Board of Commissioners (Aug. 3, 2016), available at <https://perma.cc/N6XL-3V7F>. During peak evening rush hours, more than one million residents are traversing Cook County roads and bike lanes or relying on mass transit. *Id.* Relatedly, almost 130,000 businesses call Cook County home. *Id.* at p. 10. Those businesses serve "regional residents" that take approximately 750,000 trips into Cook County each day, as well as the 52 million people who visit Chicago every year. *Id.* at pp.

11–12. Each of those businesses rely on Cook County’s transportation infrastructure for their continued success.

But the demand on Cook County infrastructure comes from more than its residents and businesses. The global supply chain relies on Cook County infrastructure. Chicago is the busiest port in North America, handling over 15.4 million shipping containers annually. *Id.* at p. 13. By some estimates, the value of the freight coming through Cook County is in the trillions of dollars. *See Id.*; *See also Connecting Cook County Freight Plan*, Cook County Board of Commissioners, p. 4 (Oct. 2018), available at <https://perma.cc/F2M5-EMMM>. The deluge of freight coming in to Cook County every year supports over 175,000 jobs and is serviced by approximately 35,000 trucking companies and over 330,000 registered trucks in Cook County. *2040 Long Range Transportation Plan* at 13.

**A. The existing roads in Cook County are overcrowded, underfunded, and are in a state of disrepair.**

Predictably, such a high volume of traffic leads to traffic congestion. Many of Cook County’s main thoroughfares rank as having “very heavy congestion” or “extreme congestion” of traffic. *See Highway Congestion PM Peak Travel Time Indices 2012, Chicago Region*, Chicago Metropolitan Agency for Planning (Sept. 2014), available at [https://www.cmap.illinois.gov/documents/10180/349301/ChicagoRegionTravelTimeIndexMap\\_2012.pdf](https://www.cmap.illinois.gov/documents/10180/349301/ChicagoRegionTravelTimeIndexMap_2012.pdf) (last accessed June 24, 2021). The congestion plaguing Cook County roads is, in many instances, inescapable since it exists in many places for more than ten hours per day. *See Congested Hours per Weekday, Chicago Region, 2012*, Chicago Metropolitan Agency for Planning (Oct. 2014), available at [https://www.cmap.illinois.gov/documents/10180/349301/DurationofHighwayCongestionChicagoRegion\\_2012.pdf](https://www.cmap.illinois.gov/documents/10180/349301/DurationofHighwayCongestionChicagoRegion_2012.pdf) (last accessed June 24, 2021). Indeed, almost half of the top



twenty traffic “bottlenecks” in the Upper Midwest can be found in Cook County alone. *Connecting Cook County Freight Plan* at 15.

Constant congestion on Cook County roads, in turn, creates significantly unreliable travel times. Many of Cook County’s roads have been deemed “Severely Unreliable” or “Extremely Unreliable” for travel times. *See Travel Time Reliability, Chicago Region, 2012*, Chicago Metropolitan Agency for Planning (Dec. 2014), *available at* [https://www.cmap.illinois.gov/documents/10180/349301/HighwayTravelTimeReliability\\_ChicagoRegion\\_2012.pdf](https://www.cmap.illinois.gov/documents/10180/349301/HighwayTravelTimeReliability_ChicagoRegion_2012.pdf). This unreliability, in turn, generates other negative externalities. The average Cook County commuter loses 73 hours per year to traffic congestion, and spends over \$1,400 per year on related expenses, all from being stuck in Cook County traffic. *2019 Urban Mobility Report*, p. 22, Texas A&M Transportation Institute (Aug. 2019), *available at* <https://perma.cc/7ZM8-SZNY>.

The cost to the County as a whole is even higher. Collectively, the residents of the Cook County Metropolitan Area are saddled with over \$7.1 billion in annual congestion costs. *Id.* at 26. These same residents collectively lose 352 million hours annually to traffic delays and unnecessarily burn almost 145 million gallons of fuel. *Id.* The public health impacts of wasting so much time and fuel being stuck in traffic are well documented. For example, one estimate is that between 1,500 and 2,000 premature deaths occurred in 2020 because of nationwide traffic congestion, and approximately \$1.3 billion in public health costs in the Cook County Metropolitan Area are attributable to traffic congestion. *See* Jonathan I. Levy, Jonathan J. Buonocore, & Katherine von Stackelberg, *The Public Health Costs of Traffic Congestion: A Health Risk Assessment*, 9 J. Environ. Health 65 (2010), *available at* <https://ehjournal.biomedcentral.com/track/pdf/10.1186/1476-069X-9-65.pdf>

(last accessed June 24, 2020). Similarly, the cumulative effect of being stuck in traffic has a negative impact on psychological wellbeing. *See, e.g.,* Austin Frakt, *Stuck and Stressed: The Health Costs of Traffic*, New York Times (Jan. 21, 2019), available at <https://perma.cc/7X6G-ZPUY>.

To add insult to injury, the roads and bridges where Cook County residents spend so much time stuck in traffic are not receiving enough funding to be adequately maintained. 39 percent of the roads in Cook County are in “poor” or “fair” condition, while 45 percent of the bridges are “not in satisfactory condition.” *2040 Long Range Transportation Plan* at 24. Of that 45 percent, a majority are “functionally obsolete”, many are “structurally deficient”, and, worryingly, 5 of that 45 percent is comprised of bridges which are both “functionally obsolete” and “structurally deficient.” *Id.*

The cost of repairing all the deficiencies is, predictably, quite high. In 2015, Cook County estimated that the cost of bringing all roads and bridges into a State of Good Repair<sup>1</sup> would cost over \$900 million, to be spent in a five-year period. *See Connecting Cook County Advisory Committee Meeting #5*, p. 9, Cook County Board of Commissioners (Mar 16, 2015), available at <https://perma.cc/VR5J-XFR4>. Interestingly, the County later determined that \$900 million worth of needed improvements could be accomplished for \$600 million—paid for via an additional \$60 million invested in roadway improvements annually for ten years. *Connecting Cook County Executive Summary*, p. 2, Cook County Board of Commissioners (2016), available at <https://perma.cc/4N6C-4KXS>.

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<sup>1</sup> The American Public Transportation Association defines a “State of Good Repair” as being when the infrastructure in question is “fit for the purpose for which [it is] intended.” *Defining a Transit Asset Management Framework to Achieve a State of Good Repair*, p. 1, American Public Transportation Association (2013), available at <https://perma.cc/65WW-4WVA>.

Using either amount, Cook County’s investment in roadway improvements remains inadequate—in 2015, it only allocated \$42.2 million for roadway improvements. *2040 Long Range Transportation Plan* at 24. As a result, the remaining repairs—either \$860 million worth or \$560 million worth, depending on which of the County’s publications relied upon—will continue to deteriorate, and the County acknowledges this will increase its costs when it goes to fix the problems. *See Id.* at 60 (“By postponing regular maintenance, agencies significantly add to their long-term costs. It is three to four times more expensive, for example, to restore pavement once it has fully degraded than to keep it in a state of good repair through regular upkeep.”).

In sum, Cook County’s roads and bridges are overcrowded, underfunded, and deteriorating around the hundreds of thousands of residents and businesses who are stuck on them every day. In response to this perfect storm, Cook County is not even doing the bare minimum by investing enough to bring the roads into a State of Good Repair. Instead, the County has committed to a funding level that is more performative than substantive.

**B. The Cook County public transit systems fare no better.**

For many Cook County residents, and the businesses that serve those residents, their livelihood depends on regional public transit systems. Amongst the public transit agencies operating in Cook County (RTA, Amtrak, and the South Shore Line), they collectively provide 650 million passenger trips annually, and approximately 90% of those trips begin or end in Cook County. *2040 Long Range Transportation Plan* at 28.

Unfortunately, the public transit system suffers from the same inadequate investment that plagues Cook County’s roads. For RTA’s infrastructure to be deemed in a State of Good Repair, some \$20 billion in deferred maintenance must be completed. *Id.* at 34.

Assuming the \$20 billion in deferred maintenance is addressed, the RTA would need an additional \$13.4 billion in the ensuing decade to maintain a State of Good Repair. *Id.* On an annual basis, the RTA would need approximately \$3 billion dollars in funding for infrastructure improvements. *Id.* For some perspective, in the same year that the County’s Long Range Transportation Plan called for \$3 billion in annual funding for infrastructure improvements for the RTA, only \$1.3 billion had been budgeted for that purpose. *Id.*

Even assuming that Cook County could adequately maintain the public transit infrastructure it has, a more elemental problem exists—the current system does not adequately serve all of Cook County. For example, Cook County has not meaningfully expanded its passenger rail system since the 1990s, while many other metropolitan areas in the United States—Los Angeles, New York, Washington, D.C., San Francisco, and Boston, to name a few—have each increased their passenger rail capacity in that period. *Id.* at 31. The result is what one would expect—ridership has declined, while its peer cities have seen increases in ridership. *Id.*

The lack of significant investment in public transit has given rise to so-called “transit deserts”<sup>2</sup> throughout Cook County. A 2014 study from the Center for Neighborhood Technology found that nearly 440,000 Cook County residents—approximately 10% of the population—lived in transit deserts, facing “severely limited” or “nonexistent” access to affordable, high-speed public transit. *Transit Deserts in Cook County*, p. 1, Center for Neighborhood Technology, available at <https://perma.cc/9E52-WZJ3>. These transit

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<sup>2</sup> A “transit desert” is an area where demand exists for rail and bus service, yet the closest rail service is more than 1/2 mile away, and the closest bus service is more than 1/4 mile away. *Transit Deserts in Cook County*, Center for Neighborhood Technology, p. 1 available at <https://perma.cc/9E52-WZJ3>.

deserts lead to “restricted mobility and limited access to all of the region’s jobs and amenities.” *Id.* The lack of available mass-transit options is not only a problem for Cook County residents; it is also a problem for Cook County employers, since four of the region’s top five job centers were in these transit deserts. *Id.* at 2. Companies which are in these transit deserts suffer from smaller labor pools, decreased workforce reliability, and higher turnover rates—all of which add to the operating costs of a business. *See 2040 Long Range Transportation Plan* at 57.

**C. Cook County’s current system for funding infrastructure improvements is untenable.**

While Cook County’s infrastructure receives less than the bare minimum amount of funding it needs to be in a State of Good Repair, the funds which have traditionally been available for infrastructure investment will become scarcer as well. A 2018 study of Illinois’ infrastructure needs showed that, from 1999 through 2015, receipts from motor fuel tax dollars decreased on a per driver basis, while funding sources such as toll revenues drastically increased. *See Mary Craighead, AICP, Forecasting Bumpy Roads Ahead, An Assessment of Illinois’ Transportation Needs*, pp. 16–17 (Apr. 4, 2018), *available at* <https://perma.cc/9DK3-AX4S>. Moreover, the amount of money needed in other parts of Illinois will ensure that competition for State and federal funding will become more heated. *See generally Id.* at pp. 12–15. Finally, the federal motor fuel tax has not been increased since 1993 and is not indexed to inflation. *Id.* at pp. 16–17. As a result, continued efficiencies in fuel consumption will, over time, reduce the amount of money available from the federal government through the federal motor fuel tax. *See Id.*

Despite this reality, Cook County continues to cling to unsustainable funding models rather than complying with the Safe Roads Amendment. It seems the County would rather

use taxes and fees, which are generated by the users of infrastructure, on something other than the maintenance of that infrastructure. For example, Cook County’s infrastructure improvement plan for Fiscal Years 2021 through 2025 calls for 15% of funding, totaling approximately \$140 million over those years, to be derived from grants, while approximately half that amount—\$69.7 million over five years—coming from “Local Reimbursements.” *FY2021-2025 Proposed Transportation Improvement Program*, p. 13, Cook County Department of Transportation and Highways, *available at* <https://perma.cc/UAC2-8MAX>.

The six Cook County taxes that Petitioners identified as being subject to the Safe Roads Amendment<sup>3</sup> (collectively, the “Safe Roads Taxes”) were projected to generate \$247.4 million in tax revenues annually, which would be available to be invested in infrastructure improvements around Cook County. *See* C 59–61, ¶¶ 84–109. While not a silver bullet for the County’s infrastructure investment needs, the Safe Roads Taxes would permit the County to increase its “Local Reimbursements” from \$69.7 million over a five-year period to over \$1.2 billion—a seventeen-fold increase. *FY2021-2025 Proposed Transportation Improvement Program* at 13. In fact, the Petitioners’ proper interpretation of the Safe Roads Amendment would allow the County to more than double its total infrastructure investment over the coming five years. Certainly, this would empower the County to reach its “policy priorities” of “maintain[ing] and moderniz[ing] what already

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<sup>3</sup> The Petitioners’ Complaint identified six taxes imposed by Cook County which are subject to the Safe Roads Amendment: (1) the Cook County Home Rule County Use Tax; (2) the Cook County Retail Sale of Gasoline and Diesel Fuel Tax; (3) the Cook County New Motor Vehicle and Trailer Excise Tax; (4) the Cook County Home Rule Use Tax for Non-Retail Transfers of Motor Vehicles; (5) the Cook County Wheel Tax on Vehicles; and (6) the Cook County Parking Lot and Garage Operations Tax. *See Illinois Rd. & Transportation Builders Ass’n v. Cty. of Cook*, 2021 IL App (1st) 190396, ¶ 7.

exists” and “increas[ing] investments in transportation” while “support[ing] the region’s role as North America’s freight capital.” *2040 Long Range Transportation Plan* at 48–49.

**II. The County’s interpretation of the Safe Roads Amendment encourages the same capricious use of vital resources that predated the Safe Roads Amendment.**

The County’s argument in favor of exempting the Safe Roads Taxes from the Safe Roads Amendment largely rests on public policy grounds. The County asserts that applying the Safe Roads Amendment to the Safe Roads Taxes “may” prevent the County, as well as “*any* of the more than 8,000 units of local government in Illinois” from responding to “fiscal crises, natural or man-made disasters or other emergencies . . . .” C 443 (emphasis in original). This argument, repeated before the Appellate Court, is flawed for multiple reasons.

First, the County drastically overstates the impact that this Court’s ruling would have on municipal finance. The County argues that removing its discretion over specific home rule taxes would affect “more than 8,000 units of local government in Illinois”, including “1,430 townships, 1,391 road and bridge districts, 60 road districts, 14 mass transit districts, 11 port districts and one transportation authority”. C 443. Importantly, only two types of units of local government can qualify for home-rule status—counties and municipalities. *See* Ill. Const., Art. VII, § 6(a) (identifying counties which have a “chief executive officer elected by the electors of the county and any municipality” that either meets a population threshold or elects “by referendum” to be a home rule unit). There are 102 counties in Illinois,<sup>4</sup> and only one county—Cook County—possesses home rule authority. *See Illinois*

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<sup>4</sup> To the extent this fact is disputed, the Chamber asks this Court to take judicial notice of the fact that there are 102 counties in Illinois. *See Am. Fed’n of State, Cty. & Mun. Emps., Council 31, AFL-CIO v. Cty. of Cook*, 145 Ill. 2d 475, 480 (1991) (the Court can take

*Counties and Incorporated Municipalities*, p. 32, Illinois Secretary of State (Jul. 2012), available at <https://perma.cc/2MN2-7F7B>. Similarly, there are 216 home rule municipalities in Illinois. *Home Rule Municipalities*, Illinois Municipal League, available at <https://perma.cc/4DTD-W6HY>. Should the Court’s ruling have as far-reaching effect on local taxing bodies as the County predicts, it could only possibly impact 217 units of local government in Illinois, not 8,000.

Second, the County’s conceptualization that the Safe Roads Amendment would tie its hands by requiring certain taxes to be spent on a certain class of expenses, *See* C 443–44, fundamentally misunderstands the distribution of power in this State. The people of Illinois have “every right” to delineate the power of the government by means of a constitutional amendment. *In re Pension Reform Litig.*, 2015 IL 118585, ¶ 76. The approval of the Safe Roads Amendment was a “statement by the people of Illinois” that “the authority” of certain units of government “does not include the power to” use taxes which, in the people’s judgment, should be spent on infrastructure, for non-infrastructure purposes. *Id.* It would not be an unjust outcome to conclude that the Safe Roads Amendment acts as a check on a unit of local government’s discretion. Instead, the unjust outcome would be to conclude that this type of restriction is inconceivable because of the “time, resources, upheaval and inconvenience” such restrictions would cause. C 443.

Third, this same argument was considered (and rejected) by Illinois voters when they approved the Safe Roads Amendment. Prior to approval, the opponents of the Safe Roads Amendment argued that the proposed amendment was “highly problematic for multiple

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judicial notice of State statutes); 55 ILCS 5/1-1002 (the boundaries of the counties in Illinois are established and can only be changed by law).



reasons”, including that it would “create budgetary shortfalls for local governments with their own motor fuel taxes and motorist fees.” *More Questions than Answers: Illinois Transportation Taxes and Fees Lockbox Amendment*, pp. 1, 4, University of Chicago-Harris Center for Municipal Finance, available at <https://perma.cc/Q826-5CCQ>. Voters clearly rejected this argument—nearly 80 percent of Illinois voters chose to adopt the Safe Roads Amendment. C 56–57, ¶ 77. The County is now reviving this argument, attempting to undo the will of the voters with an argument that Illinois voters overwhelmingly rejected. This Court should not assist the County in its quest to undermine a constitutional amendment that Illinois residents emphatically approved by using an argument that those voters rejected.

Finally, the County prognosticates that economic doom will be in tow if it is unable to employ unfettered discretion in how it spends certain tax revenues, because it would be unable to respond to “fiscal crises, natural or man-made disasters or other emergencies”. C 443. This interpretation ignores the significant economic benefits that the County stands to gain, as detailed herein. Those benefits, at least hopefully, would be included in the County’s claimed “policy priorities”. *2040 Long Range Transportation Plan* at 48–49. For instance, one study suggests that \$1.00 invested generally in public infrastructure generates approximately \$0.96 in tax revenue over the ensuing two decades. Isabelle Cohen, Thomas Freiling, & Eric Robinson, *The Economic Impact and Financing of Infrastructure Spending* at 9, College of William & Mary, Thomas Jefferson Program in Public Policy (2012), available at <https://perma.cc/9XXZ-F8YC>. When considering specific types of investments in public infrastructure, the return can be quite staggering. For example, \$1 invested in public transit and related types of transportation infrastructure can return over

\$4.20 in new tax revenues over the ensuing two decades. *Id.* The County’s own estimates are even more illuminating. The County has previously concluded that every \$1 invested in public transportation can generate up to \$3 in business sales, while \$1 billion in “capital spending” on public infrastructure will produce \$1.1 billion in worker income. *See Connecting Cook County Committee Working Meeting #3*, p. 32, Cook County Board of Commissioners (Sept. 16, 2014), available at <https://perma.cc/EMH4-P7TT>. While the County argues that bad things *might* happen if it is required to abide by the Safe Roads Amendment, its argument ignores the “real costs” associated with “not investing in infrastructure,” including “increased congestion and foregone productivity and jobs.” *An Economic Analysis of Infrastructure Investment* at 6, The Department of the Treasury with the Council of Economic Advisers (Oct. 11, 2010), available at <https://perma.cc/UT3S-L3QT>.

This case offers the Court a unique opportunity to see the second- and third-order effects of its decision *prior* to ruling. The Court need not look further than the current state of transportation funding in Cook County to understand the ramifications that will be felt by every resident and business owner in Cook County if the appellate court’s opinion is affirmed. The County’s argument—that it should have unfettered discretion over how to spend these funds—has resulted in roads and bridges that are crumbling around the residents who spend hundreds of hours each year stuck on them. Meanwhile, superficial amounts of investment, insufficient to even cover the bare minimum needed to reach a State of Good Repair, are offered over multi-year periods instead of realigning the County’s spending to reflect its claimed “policy priorities”. *2040 Long Range Transportation Plan* at 48–49.

**CONCLUSION**

Should the appellate court's ruling be affirmed, then innumerable businesses and residents will continue to suffer from the same discretionary government spending that has led to tens of billions of dollars in deferred maintenance and completely inadequate modernization and expansion of Cook County's transit systems. On behalf of the people taking approximately 19 million trips on Cook County roads every day, as well as the businesses who employ and serve those same people and rely on those same roads, the Chamber respectfully requests that this Court reverse the judgment of the Appellate Court in this matter and award the Plaintiffs-Appellants their requested relief.

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No. 127126

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**IN THE SUPREME COURT OF ILLINOIS**


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ILLINOIS ROAD AND TRANSPORTATION	)	
BUILDERS ASSOCIATION, FEDERATION OF	)	Appeal from the Illinois
WOMEN CONTRACTORS, ILLINOIS	)	Appellate Court, First
ASSOCIATION OF AGGREGATE PRODUCERS,	)	District, No. 1-19-0396
ASSOCIATED GENERAL CONTRACTORS OF	)	
ILLINOIS, ILLINOIS ASPHALT PAVEMENT	)	
ASSOCIATION, ILLINOIS READY MIXED	)	
CONCRETE ASSOCIATION, GREAT LAKES	)	
CONSTRUCTION ASSOCIATION, AMERICAN	)	
COUNCIL OF ENGINEERING COMPANIES	)	
(ILLINOIS CHAPTER), CHICAGOLAND	)	
ASSOCIATED GENERAL CONTRACTORS,	)	There heard on appeal from
UNDERGROUND CONTRACTORS	)	the Circuit Court of Cook
ASSOCIATION OF ILLINOIS, and ILLINOIS	)	County, Chancery Division,
CONCRETE PIPE ASSOCIATION,	)	No. 2018-CH-02992, Hon.
	)	Peter Flynn, Judge Presiding
Plaintiffs-Appellants,	)	
	)	
v.	)	
	)	
THE COUNTY OF COOK, a Body Politic and	)	
Corporate,	)	
	)	
Defendant-Appellee.	)	

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**CERTIFICATE OF COMPLIANCE**

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 15 pages.

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 30, 2021, I electronically filed the foregoing *AMICUS CURIAE BRIEF OF THE ILLINOIS CHAMBER OF COMMERCE IN SUPPORT OF PLAINTIFFS-APPELLANTS* with the Illinois Supreme Court using the eFileIL system, which will send notification of such filing to the following:

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Certificate of Service are true and correct.

\_\_\_\_\_  
/s/ David P. Hennessy