

The Achievements of the Development and Tendency of Environmental Litigation in Taiwan

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ABSTRACT

Over the last few decades, with the rapidly developing economy and increase in national income year by year in Taiwan, the living conditions have improved considerably; however, the environmental pollution issue is becoming increasingly serious. Along with an increase in civil consciousness and facing endless pollution and improper exploitation and development cases, more and more civic and environmental organizations are willing to stand up for safeguarding the home environment.

In Taiwan, the types of litigation related to environmental impact assessment (hereinafter referred to as “EIA”) include as follows:

First, *traditional revocation of administrative disposition*: This is typical revocation of administrative acts, i.e., revoking unfavorable governmental administrative acts by the person(s) subject to the disposition, or other interested parties. In this type of litigation, particularly in Taiwan, there are many cases where local residents, as the interested parties, revoked the EIA and won. The majority of these cases were important development cases led by the government, such as the construction of Science Parks, Industrial Zones, express highways, and incinerators, etc.

Second, *citizen suit*: If the competent authority for EIA fails or is negligent in execution of its obligated duty in accordance with the Environment Impact Assessment Act or its regulations, and after receiving written notice from the victims or public interest group of more than 60 days, the victims or public interest group may file a suit in the courts, claiming for executing said obligated duty. It was first adopted in the Air Pollution Control Act, amended and promulgated on January 20, 1999 and thereafter extended to the Waste Disposal Act, the Water Pollution Control Act, the Soil and Groundwater Pollution Remediation Act, and the Marine Pollution Control Act. This legal procedure has been followingly added in Environmental Impact Assessment Act, later amended and promulgated on January 8, 2003. The latest legislation is the Spatial Planning Act, passed by the Taiwan Congress on December 18, 2015.

This article will discuss two aspects. (1) For *revocation of administrative disposition*, focusing on the introduction of the contestability in regard to how local residents use the identity as interested parties to fight for the result of EIA, breaking through the limitations of the legal standing in order to file a lawsuit, and convincing the court to conduct proper review over the high-tech professional EIA. (2) For *citizen suit*, introducing the process of adoption of citizen suits into Taiwan and its localization. It will analyze how to constitute and meet the litigation elements of a citizen suit, and the process of persuading the courts through the facts or other legal reasons with to obtain a winning decision, on the basis of those actual winning cases of public interest groups and victims.