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LAVERY, J., dissenting. I agree with the majority on the first part of its opinion concerning the right of the plaintiff, Richard Read, to allege alternate theories of liability. I depart from the majority opinion on whether the defects at the town of Plymouth's municipal waste disposal transfer site come within the ambit of General Statutes § 13a-149. The majority reasoned that because the transfer station was open only to residents of the plaintiff's municipality who acquired permits and that it was open only for limited hours, it was not always open to the public at large.

It is undisputed that the defendant town of Plymouth has designated the waste transfer station as the disposal location for the town's solid waste. See General Statutes § 22a-220. The residents of the defendant town, therefore, must use the waste transfer station to dispose of their solid waste. It is incumbent on each town and city in Connecticut to designate an area for their residents to dispose of their solid waste. See General Statutes § 22a-220. The fact that the waste station has limited use and requires a local permit does not diminish its public use character. Every citizen of Connecticut has to have access to such a place.

In fact, walkways and sidewalks that lead to public buildings come within the confines of § 13a-149. "The word road or highway as used in the highway defect statute has usually been construed to include sidewalks. . . . The term sidewalk is meant to apply to those areas that the public uses for travel. . . . Furthermore, a highway is defective within the meaning of § 13a-149 when it is not reasonably safe for public travel, and the term public travel refers to the normal or reasonably anticipated uses that the public makes of a highway in the ordinary course of travel." (Citations omitted.) *Novicki v. New Haven*, 47 Conn. App. 734, 740, 709 A.2d 2 (1998).

In *Novicki*, the court held that a walkway leading to a public school was covered by § 13a-149. In this case, the walkway at issue leads to the disposal bin at the town landfill that the plaintiff was required to use to dispose of his solid waste properly and, in my opinion, comes under the ambit of § 13a-149.¹ Whether there is a defect was not an issue in either the trial court or in the majority opinion, and, for the purposes of this dissent, I assume the defect exists.

I respectfully dissent. I would reverse the judgment in its entirety and remand the case for further proceedings.

¹ There are well reasoned Superior Court cases, with which I agree, that concern an issue substantially similar to the one in this case. See, e.g., *Kelly v. New Britain*, Superior Court, judicial district of New Britain, Docket No. CV-02-0518091-S (December 10, 2004) (38 Conn. L. Rptr. 403); *Pires v. Litchfield*, Superior Court, judicial district of New Britain, Docket No. CV-00-0502703-S (April 4, 2003) (34 Conn. L. Rptr. 366); *Hodge v. Old Saybrook*,

Superior Court, judicial district of Middlesex, Docket No. CV-99-0088746-S (December 20, 2001); *Dunleavy v. Groton*, Superior Court, judicial district of New London, Docket No. 545592 (November 23, 1998) (23 Conn. L. Rptr. 424).
