

ILLINOIS POLLUTION CONTROL BOARD  
October 6, 1994

DOROTHY FURLAN and )  
MICHAEL FURLAN, )  
 )  
Complainants, )  
 )  
v. ) PCB 93-15  
 ) (Enforcement)  
UNIVERSITY OF ILLINOIS )  
SCHOOL OF MEDICINE, )  
 )  
Respondent. )

ORDER OF THE BOARD (by E. Dunham):

This matter comes before the Board on a September 12, 1994 letter filed by complainants which the Board construes as a motion for reconsideration. On September 19, 1994, the respondent filed its response to the motion for reconsideration.

On September 1, 1994, the Board granted the respondent's motion for summary judgment. The Board granted summary judgment based on a noise report submitted by the respondent showing that the sound measurements did not exceed the Board's numerical noise limitations in 35 Ill. Adm. Code 901.102.

Complainants argue that the nuisance count was not addressed by the motion for summary judgment and that the noise report states that the "noise is audible and will easily penetrate a home of normal construction." The complainants request that the Board consider this matter on the nuisance allegation.

In its response, respondent contends that complainants fail to provide a reason why a response to the motion for summary judgment was not filed. In addition, respondent maintains that the complainants fail to introduce any new evidence for the Board to reconsider its order and merely reiterates the information presented in the motion for summary judgment.

The Board reconsiders its order of September 1, 1994, which granted summary judgment in favor of respondent. Complainants have presented no objection to the noise report submitted by respondent. The noise report submitted by respondent clearly indicates that there is no violation of the numerical noise standard. Therefore, the Board finds that summary judgment for respondent on the issue of violation of the Board's numerical regulations was appropriate.

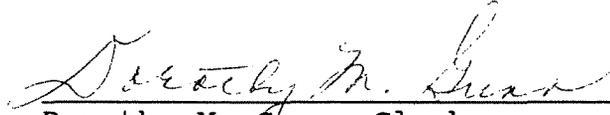
In considering the nuisance allegations, the Board noted that the motion for summary judgment did not directly address this allegation but granted summary judgment because the

complainants had not filed a response to the motion. The Board reverses its finding of summary judgment on the issue relating to the nuisance violation. The Board directs the parties to proceed to hearing on the allegations in the complaint relating to a violation of the Board's nuisance provisions.

The hearing officer is ordered to set this matter for hearing. The hearing shall pertain to the allegations of a nuisance violation.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 6<sup>th</sup> day of October, 1994, by a vote of 6-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board