

ILLINOIS POLLUTION CONTROL BOARD  
June 18, 2009

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 09-44
	)	(IEPA No. 80-90-AC)
GORDON INVESTMENT GROUP, LLC,	)	(Administrative Citation)
	)	
Respondent.	)	

ORDER OF THE BOARD (G.T. Girard):

On May 11, 2009, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Gordon Investment Group, LLC (Gordon). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Gordon's mobile home park located at 601 E. Osborn Street in Bushnell, McDonough County. The property is commonly known to the Agency as "Country Gardens Mobile Home Park" and is designated with Site Code No. 1090155029. For the reasons below, the Board accepts Gordon's petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), an administrative citation is an expedited enforcement action brought before the Board seeking civil penalties that are fixed by statute. Administrative citations may be filed only by the Agency or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 21(o), (p), 31.1(c), 42(b)(4), (4-5) (2006); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on March 26, 2009, Gordon violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2006)) at the property by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and the deposition of general or clean construction or demolition debris. The Agency asks the Board to impose a \$4,500 civil penalty on Gordon.

As required, the Agency served the administrative citation on Gordon within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2006); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by June 16, 2009. Gordon timely filed a petition (Pet.) with the Board on June 12, 2009. *See* 415 ILCS 5/31.1(d) (2006); 35 Ill. Adm. Code 101.300(b)(2), 108.204(b). Among other things, the petition denies that Gordon was operating an open dump site and asserts that Gordon was "salvaging the mobile homes as they were being torn down" and that "[t]he grounds were being continually cleaned as materials were disposed of at a local legal dump site." Pet. at 1-2; *see* 35 Ill. Adm. Code 108.206. The Board accepts the petition for hearing.

The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. *See* 35 Ill. Adm. Code 108.300; 415 ILCS 5/31.1(d)(2) (2006). By contesting the administrative citation, Gordon may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2006); 35 Ill. Adm. Code 108.500. A schedule of the Board's hearing costs is available from the Clerk of the Board and on the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). *See* 35 Ill. Adm. Code 108.504.

Gordon may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If Gordon chooses to withdraw its petition, it must do so in writing, unless it does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Gordon withdraws its petition after the hearing starts, the Board will require Gordon to pay the hearing costs of the Board and the Agency. *See id.* at 108.500(c).

The Agency has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2006); 35 Ill. Adm. Code 108.400. If the Board finds that Gordon violated Section 21(p)(1), (p)(3), or (p)(7) of the Act, the Board will impose civil penalties on Gordon. The civil penalty for violating any provision of subsection (p) of Section 21 is \$1,500 for each violation, except that the penalty amount is \$3,000 for each violation that is the person's second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5) (2006); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that Gordon has "shown that the violation resulted from uncontrollable circumstances, the Board shall adopt a final order which makes no finding of violation and which imposes no penalty." 415 ILCS 5/31.1(d)(2) (2006); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 18, 2009, by a vote of 5-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board