

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PAUL CHRISTIAN PRATAPAS,)	
An American)	
)	
Complainant,)	
)	
v.)	PCB 23-077
)	
DeJAMES BUILDERS, and CITY OF)	
NAPERVILLE: MAYOR STEVE)	
CHIRICO)	
)	
Respondents)	

NOTICE OF FILING

To:	Paul Christian Pratapas	DeJames Builders
	1330 E. Chicago Avenue	1957 Quincy Ct.
	Naperville, Illinois 60530	Glendale Heights, Illinois 60139
	paulpratapas@gmail.com	

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the Motion to Quash Summons and Motion to Dismiss Frivolous Complaint by Respondent Mayor Steve Chirico, a copy of which is herewith served upon you.

/s/ Jennifer Bonner

Jennifer Bonner

Date: January 19, 2023

Jennifer Bonner
City of Naperville
400 S. Eagle Street
Naperville, Illinois 60540
Phone: (630) 420-6013

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PAUL CHRISTIAN PRATAPAS,)
An American)
)
Complainant,)
)
v.) PCB 23-077
)
DeJAMES BUILDERS, and CITY OF)
NAPERVILLE: MAYOR STEVE)
CHIRICO)
)
Respondents)

**MOTION TO QUASH SUMMONS AND
MOTION TO DISMISS FRIVOLOUS FORMAL COMPLAINT**

NOW COMES the Respondent, Mayor Steve Chirico (“Respondent”), by and through his attorney, Jennifer Bonner, Senior Assistant City Attorney, and hereby objects to the personal jurisdiction over the Respondent and moves to dismiss Complainant Paul Pratapas’ (“Complainant”) Complaint. In support of its motion, Respondent states as follows:

1. Complainant’s Complaint alleges environmental violations against DeJames Builders’ regarding construction of a building in the City of Naperville. (Compl. at 2-3.)
2. The Respondent is the Mayor of the City of Naperville. (*Id.*)
3. Section 101.304(c)(2) of the Illinois Pollution Board procedural (“IPB”) rules provide that service of enforcement complaints must be made by: a) personal service; b) U.S. Mail with a recipient’s signature recorded by the U.S. Postal Service upon delivery; or c) a third-party commercial carrier with a recipient’s signature recorded by the third-party commercial carrier upon delivery. (35 Ill. Adm. Code 101.304(c)(2)).
4. On December 14, 2022, Complainant filed a Proof of Service purporting to serve the Complaint upon Respondent via email. (Dec. 14, 2022 Proof of Service.)

Electronic Filing: Received, Clerk's Office 01/19/2023

5. Electronic service is not allowed under Section 101.304(c)(2) of the IPB. (*Id.*)

Emailing of the Complaint was not proper service. Additionally, the proof of service filed regarding electric service is deficient because it does not contain the email address of the recipient and person authorizing the filing; the number of pages; and the date and time of transmission as required by IPB 101.1060(e). (35 Ill. Adm. Code 101.1060(e).)

6. On December 23, 2022, Complainant filed a Proof of Service purporting to serve the Complaint upon Respondent via personal service. (Dec. 23, 2022 Proof of Service.)

7. IPB does not define personal service, so guidance may be provided by the Illinois Code of Civil Procedure. (35 Ill. Adm. Code 101.102.) Pursuant to 735 ILCS 5/2-203, service upon an individual shall be made by leaving a copy of the summons with him or her. Here, Complainant did not leave a copy of the summons with Respondent. (Dec. 23, 2022 Proof of Service.)

Complainant's attempt to serve Respondent by providing a copy of the Complaint to "Julie Dumler" does not constitute personal service and therefore, the Illinois Pollution Control Board lacks jurisdiction over Respondent.

8. Section 31(d)(1) of the Illinois Environmental Protection Act ("Act") provides that a hearing is not required for a formal complaint if it is duplicative or frivolous. (415 ILCS 5/31(d)(1).) A complaint is frivolous if it requests "relief that the Board does not have the authority to grant," or "fails to state a cause of action upon which the Board can grant relief." (35 Ill. Adm. Code 103.212(a).)

9. Pursuant to the Act "any person may file with the Board a complaint. . . against any person allegedly violating this Act. . ." (415 ILCS 5/31(d)(1).) There are no allegations concerning any personal involvement or action by Respondent, and in fact, all the allegations concern DeJames Builders. Complainant appends a newspaper clipping about Respondent

indicating that he supports business development; this article is irrelevant and contains nothing to support an environmental violation by Respondent. Complainant's claim against Respondent must be dismissed with prejudice for failing to state a claim for which relief may be granted, because there are no allegations supporting any action or involvement by Respondent. No affidavit is necessary to support this motion as the grounds for dismissal are plainly stated on the face of the Complaint.

10. Additionally, The Board does not have the authority to grant the relief Complainant is requesting as to Respondent. "[T]he Board's powers are limited to those vested in it by the Environmental Protection Act." *Flagg Creek Water Reclamation Dist. v. Village of Hinsdale*, PCB No. 06-141, 2006 WL 2869930 at *8 (Sept. 21, 2006).

11. In his prayer for relief, Complainant seeks Respondent questioned regarding purported ethical violations relating to business development in the City of Naperville and an order halting all permitting and construction in the City of Naperville. (Compl. ¶ 8.) Nothing in the Act allows for the requested relief, and such, these portions of the prayer for relief should be stricken. *See Tarkowski v. Belli*, PCB No. 76-55, 1976 Ill. ENV LEXIS 621, *1-2 (Apr. 08, 1976) (striking portion of prayers for relief that are not within its jurisdiction or scope of authority under the Act).

12. For the foregoing reasons, Respondent should be dismissed from the instant action.

WHEREFORE for all these reasons, Respondent respectfully requests that the Illinois Pollution Control Board find that it lacks personal jurisdiction, lacks the authority to grant the Complainant's requested relief and GRANTS this Motion to Quash Summons and Motion to Dismiss.

/s/ Jennifer Bonner
Jennifer Bonner

Jennifer Bonner
City of Naperville
400 S. Eagle Street
Naperville, Illinois 60540
Phone: (630) 420-6013

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PAUL CHRISTIAN PRATAPAS,)	
An American)	
)	
Complainant,)	
)	
v.)	PCB 23-077
)	
DeJAMES BUILDERS, and CITY OF)	
NAPERVILLE: MAYOR STEVE)	
CHIRICO)	
)	
Respondents)	

CERTIFICATE OF E-MAIL SERVICE

I, the undersigned, on oath state the following:

That I have served the attached Motion and Notice of Filing by e-mail upon Paul Christian Pratapas at the e-mail address of paulpratapas@gmail.com.

That my e-mail address is lutzkej@naperville.il.us.

That the number of pages in the e-mail transmission is 3.

That the e-mail transmission took place before 5:00 p.m. on the date of January 19, 2023.

/s/ Jennifer Bonner

Jennifer Bonner

Jennifer Bonner
City of Naperville
400 S. Eagle Street
Naperville, Illinois 60540
Phone: (630) 420-6013