

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PAUL CHRISTIAN PRATAPAS,)	
)	
Complainant,)	Case No. PCB 2023-062
)	
v.)	
)	
CHARLESTON BUILDING AND)	
DEVELOPMENT; AND OZYNGA)	
CONCRETE YARD #281)	
)	
Respondents.)	

MOTION TO DISMISS COMPLAINT

NOW COMES Ozinga Ready Mix Concrete, Inc., improperly sued as “Ozynga Concrete Yard #281”, by and through its attorneys Hinshaw & Culbertson, LLP, in opposition to Complainant’s “Motion for Extension to File POS for Ozinga Concrete Yard 281” and in support thereof states as follows:

1. In its June 1, 2023 Order (“Order”), the Illinois Pollution Control Board (“Board”) ordered the Complainant to file the “required proof of service of the Complaint” on Ozinga “no later than Monday, July 3, 2023.” In its Order, the Board set forth clear directions as to the multiple ways through which the Complainant could effectuate such service. On July 3, 2023, instead of complying with the Board’s directives, the Complainant filed a Motion for Extension to File POS for Ozinga Concrete Yard 281” (“Motion”).

2. Per the Board Rules, a motion for extension of time must be supported by good cause. 35 Ill. Adm. Code 101.522. The Complainant’s Motion completely fails to meet this standard and should be denied.

3. The Complainant’s Motion contains multiple unverified and irrelevant allegation that have nothing to do with the this case, let alone the Complainant’s request for an extension. Further, the Complainant’s apparent justifications for an extension, being that he: (1) “cannot

afford to re-serve Respondent via certified mail” and (2) “still has not been able to identify a registered agent to receive service”, are at odds with the clear directives in the Board’s Order.

4. In its Order, the Board made clear that in addition to Certified Mail, the Complainant had other options through which he could serve Ozinga. One of which included personal service upon a registered agent of Ozinga. After detailing how the Complainant could effectuate service, the Board granted the Complainant more than 30 days to locate and serve Ozinga, an Illinois corporation.

5. The Complainant’s Motion fails to provide the Board with any reason for it to find that thirty days was not a sufficient amount of time for the Complainant to locate and serve the Complaint upon an Illinois corporation such as Ozinga. The Complainant’s request for a continuance is based entirely on his failure to follow the directives of the Board’s Order, which certainly does not establish the requisite good cause for the Board to grant his Motion.

6. Further, the Complainant’s Motion also requests the Board to order Ozinga to provide him with “a name and address to receive service.” The Board rules provide that the Board may only entertain motions that are permissible under “the Act or other applicable law, this Part, or the Code of Civil Procedure.” 35 Ill. Adm. Code 101.500. Such a request is not a permissible request and should be disregarded by the Board.

WHEREFORE for the foregoing reasons, the Complainant’s Motion is not support by good cause and should be denied.

Dated: July 12, 2023

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OZINGA READY MIX CONCRETE, INC.,
an Illinois corporation

By: HINSHAW & CULBERTSON LLP
By: /s/ Richard S. Porter
Richard S. Porter
One of Its Attorneys