

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PAUL CHRISTIAN PRATAPAS,

Complainant,

v.

LISLE TOWNSHIP ROAD DISTRICT,

Respondent.

Case No. PCB 2023-013

(Citizens Enforcement - Water)

Hearing Officer: Bradley P. Halloran

MOTION TO DISMISS FOR WANT OF PROSECUTION

NOW COMES the Respondent, LISLE TOWNSHIP ROAD DISTRICT, (“Respondent”) by and through its attorneys, ANCEL GLINK, P.C., and moves the Illinois Pollution Control Board (“Board”) to dismiss this case for want of prosecution pursuant to 735 ILCS 5/2-619 and Ill. Sup. Ct. R. 219, and in support thereof, states as follows:

1. Under Ill. Sup. Ct. R. 219(c)(v), the Board has authority to dismiss a complaint with prejudice if a party has failed to comply with any order entered under the rules of the Board. Complainant Paul Christian Pratapas, (the “Complainant”) failed to attend two mandatory telephonic status conferences and failed to comply with the scheduling orders necessary to meet his burden of proof. Based on the Complainant’s failure to prosecute the claims and comply with orders, the Board should dismiss this matter for want of prosecution.

2. On July 12, 2022, the Complainant filed a Formal Complaint against respondent.

3. On September 7, 2022, the Complainant filed a Motion to Modify the Formal Complaint.

4. On September 9, 2022, the Respondent filed a Motion to Declare the Formal Complaint Frivolous.

5. On October 20, 2022, the Board granted Complainant's Motion to Modify the Formal Complaint and granted the Respondent's Motion to Declare the Formal Complaint Frivolous. The Board accepted the Modified Complaint for hearing.

6. On November 14, 2022, the Respondent filed a Motion for Production of Evidence and Discovery.

7. On November 21, 2022, the Respondent filed an Answer and Affirmative Defenses.

8. On December 12, 2022, an order was entered for: (1) the Respondent to issue a subpoena to contractors or subcontractors for the subject work by December 9, 2023; (2) the parties to propound subpoenas by December 23, 2022; (3) the parties to propound written discovery by February 3, 2023; and (4) the parties to answer written discovery by March 3, 2023. A copy of the order is attached as Exhibit A – December 12, 2022 Order.

9. The Complainant has not issued any subpoenas or propounded written discovery in compliance with the December 12, 2022 Order.

10. On February 15, 2023, a telephonic status conference was held, and the Complainant did not appear at the hearing. The Complainant was provided notice of the status conference and a call-in number prior to the hearing. A copy of the order is attached as Exhibit B – February 28, 2023 Order.

11. On February 28, 2023, an order was entered for Complainant to disclose witnesses by March 24, 2023, parties to propound written discovery by April 28, 2023, parties to answer written discovery by May 26, 2023, and to complete fact witness depositions by June 23, 2023. A copy of the order is attached as Exhibit B- February 28, 2023 Order.

12. The Complainant has not disclosed any witnesses, propounded written discovery, or deposed any fact witnesses in compliance with the order.

13. On June 22, 2023, a telephonic status conference was held, and the Complainant again did not appear at the hearing. The complainant was provided notice of the status conference and a call-in number prior to the hearing. A copy of the order is attached as Exhibit C – June 22, 2023 Order.

14. The Complainant has not actively prosecuted this case, failed to comply with orders, and failed to appear at the last two court ordered status conferences. As a result, this matter should be dismissed for want of prosecution.

15. “Under Illinois law, trial courts have the power to dismiss civil actions for inexcusable delay and lack of diligence, which is referred to as a dismissal for want of prosecution.” *People v. Kruger*, 2015 IL App (4th) 131080, ¶ 11 (internal quotation and citation omitted). Further, whether to grant a motion to dismiss for want of prosecution is well within the discretion of the trial court. *Ibid.* (citation omitted).

16. The Complainant has the burden to prove its allegations and that it is entitled to the relief requested in the complaint. The Complainant failed to disclose any witnesses that support his allegations, failed to produce any documents that he would offer at a hearing to support his allegations, and failed to appear at two mandatory telephonic status conferences. The Complainant cannot possibly meet his burden of proof. As a result of Complainant’s inexcusable delay and lack of diligence, the matter should be dismissed for want of prosecution.

WHEREFORE, the Respondent, LISLE TOWNSHIP ROAD DISTRICT, prays that this Court dismiss this matter for want of prosecution.

Dated: August 9, 2023

Respectfully Submitted,

LISLE TOWNSHIP ROAD DISTRICT

/s/ David S. Silverman

One of the Attorneys for Respondent,
Lisle Township Road District

David S. Silverman (dsilverman@ancelglink.com)

Megan A. Mack (mmack@ancelglink.com)

Jaime C. Such (jsuch@ancelglink.com)

ANCEL GLINK, P.C.

140 S. Dearborn Street, Sixth Floor

Chicago, IL 60603

Tel: (312) 782-7606/ Fax: (312) 782-0943

Attorneys for Respondent,

Lisle Township Road District

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PAUL CHRISTIAN PRATAPAS,

Complainant,

v.

LISLE TOWNSHIP ROAD DISTRICT,

Respondent.

Case No. PCB 2023-013

(Citizens Enforcement - Water)

Hearing Officer: Bradley P. Halloran

CERTIFICATE OF SERVICE

TO: Don A. Brown
Clerk of the Board
Illinois Pollution Control Board
60 E. Van Buren Street, Ste. 630
Chicago, IL 60605
Don.Brown@illinois.gov

Paul C. Pratapas
1779 Kirby Parkway, Ste 1, #92
Memphis, TN 38138
paulpratapas@gmail.com

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
60 E. Van Buren Street, Ste. 630
Chicago, IL 60605
Brad.Halloran@illinois.gov

The undersigned, an attorney, certify that I served **RESPONDENT, LISLE TOWNSHIP ROAD DISTRICT'S MOTION TO DISMISS FOR WANT OF PROSECUTION**, by emailing a copy of same to the parties listed above on the 9th day of August, 2023, before 5:00 p.m.

ANCEL GLINK, P.C.

By: /s/ David S. Silverman
One of the Attorneys for Respondent

[x] Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes same to be true.

David S. Silverman (dsilverman@ancelglink.com)

Megan A. Mack (mmack@ancelglink.com)

Jaime C. Such (jsuch@ancelglink.com)

ANCEL GLINK, P.C.

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Chicago, IL 60603

Tel: (312) 782-7606/ Fax: (312) 782-0943

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LISLE TOWNSHIP ROAD DISTRICT,

Respondent.

Case No. PCB 2023-013

(Citizens Enforcement - Water)

Hearing Officer: Bradley P. Halloran

EXHIBIT A

ILLINOIS POLLUTION CONTROL BOARD

December 12, 2022

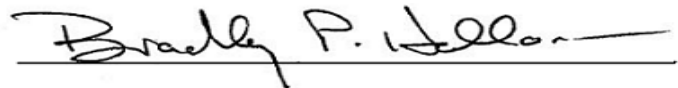
PAUL C. PRATAPAS,)
)
Complainant,)
)
v.)
) PCB 23-13
LISLE TOWNSHIP ROAD DISTRICT,) (Citizens Enforcement – Water)
)
Respondent.)

HEARING OFFICER ORDER

On December 8, 2022, respondent submitted a revised agreed proposed discovery schedule as directed. The schedule is accepted to the extent that follows: 1) respondent will issue subpoenas to Globe Construction, Inc., and any contractors or subcontractors for the relevant period for curb and sidewalk work performed on behalf of respondent by December 9, 2022; 2) the parties will issue any additional subpoenas for discoverable information and documents by December 23, 2022; 3) parties will propound written discovery by February 3, 2023; 4) parties will answer written discovery by March 3, 2023. A possible revised discovery schedule and timeline for dispositive motions will be discussed at the next telephonic status conference.

The parties or their legal representatives are directed to participate in a telephonic status conference with the hearing officer on February 15, 2023, at 11:30 a.m. The telephonic status conference must be initiated by the complainant, but each party is nonetheless responsible for its own appearance. Respondent has provided a call-in number. At the status conference, the parties must be prepared to discuss the status of the above-captioned matter and their readiness for hearing.

IT IS SO ORDERED.



Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
60 E. Van Buren Street
Suite 630
Chicago, Illinois 60605
312.814.8917
Brad.Halloran@illinois.gov

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were e-mailed on December 12, 2022, to each of the persons on the service list below.

It is hereby certified that a true copy of the foregoing order was e-mailed to the following on December 12, 2022:

Don Brown
Illinois Pollution Control Board
60 E. Van Buren Street
Suite 630
Chicago, Illinois 60605



Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/524-8509
Carol.Webb@illinois.gov

“@” Consents to email service.

SERVICE LIST

PCB 2023-013@
Paul Christian Pratapas
1330 E. Chicago Ave.
#110
Naperville, IL 60540

PCB 2023-013@
David S. Silverman
Ancel Glink
140 S. Dearborn Street
6th Floor
Chicago, IL 60603

PCB 2023-013@
Jaime C. Such
Ancel Glink
140 S. Dearborn Street
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Chicago, IL 60603

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Kathy Holmes
Ancel Glink
140 S. Dearborn Street
6th Floor
Chicago, IL 60603

PCB 2023-013@
Megan Mack
Ancel Glink
140 S. Dearborn Street
6th Floor
Chicago, IL 60603

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LISLE TOWNSHIP ROAD DISTRICT,

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(Citizens Enforcement - Water)

Hearing Officer: Bradley P. Halloran

EXHIBIT B

ILLINOIS POLLUTION CONTROL BOARD

February 28, 2023

PAUL C. PRATAPAS,)
)
Complainant,)
)
v.)
) PCB 23-13
LISLE TOWNSHIP ROAD DISTRICT,) (Citizens Enforcement – Water)
)
Respondent.)

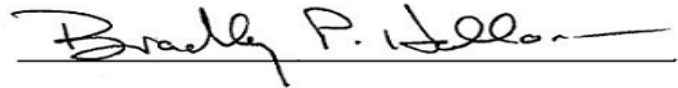
HEARING OFFICER ORDER

On February 15, 2023, a telephonic status conference was held. Complainant did not appear but did respond by email to the call-in number email provided by the respondent. In part, the email read “[a]ll of my documents have been forwarded to the office of the Inspector General for the USEPA”. The remainder of complainant’s email will be filed with the Clerk of the Board.

Respondent filed a revised proposed discovery schedule on February 23, 2023. The discovery schedule is accepted to the extent as follows and may be revised at future status conferences. 1) Complainant to disclose witnesses on or before March 24, 2023; 2) Parties to propound written discovery on or before April 28, 2023; 3) Parties to answer discovery on or before May 26, 2023; 4) Completion of fact witness depositions on or before June 23, 2023. Further discovery scheduling dates will be discussed at the next status conference.

The parties or their legal representatives are directed to participate in a telephonic status conference with the hearing officer on June 22, 2023, at 10:30 a.m. The telephonic status conference must be initiated by the complainant, but each party is nonetheless responsible for its own appearance. Respondent has provided a call-in number. At the status conference, the parties must be prepared to discuss the status of the above-captioned matter and their readiness for hearing.

IT IS SO ORDERED.



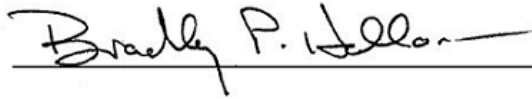
Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
60 E. Van Buren Street
Suite 630
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312.814.8917
Brad.Halloran@illinois.gov

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were e-mailed on February 28, 2023, to each of the persons on the service list below.

It is hereby certified that a true copy of the foregoing order was e-mailed to the following on February 28, 2023:

Don Brown
Illinois Pollution Control Board
60 E. Van Buren Street
Suite 630
Chicago, Illinois 60605



Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
60 E. Van Buren Street
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@ Consents to electronic service

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Ancel Glink
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Hearing Officer: Bradley P. Halloran

EXHIBIT C

ILLINOIS POLLUTION CONTROL BOARD

June 22, 2023

PAUL C. PRATAPAS,)
)
Complainant,)
)
v.)
) PCB 23-13
LISLE TOWNSHIP ROAD DISTRICT,) (Citizens Enforcement – Water)
)
Respondent.)

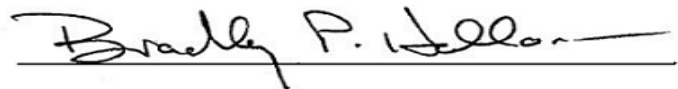
HEARING OFFICER ORDER

On June 22, 2023, a telephonic status conference was held. Complainant did not appear. The conference commenced at 10:30 a.m. and concluded at 10:40 a.m. Complainant was provided a call-in number by the respondent via email on June 15, 2023.

Respondent requested and was given leave to file a dispositive motion on or before August 9, 2023.

The parties or their legal representatives are directed to participate in a telephonic status conference with the hearing officer on September 14, 2023, at 10:30 a.m. The telephonic status conference must be initiated by the complainant, but each party is nonetheless responsible for its own appearance. Respondent has provided a call-in number. At the status conference, the parties must be prepared to discuss the status of the above-captioned matter and their readiness for hearing.

IT IS SO ORDERED.



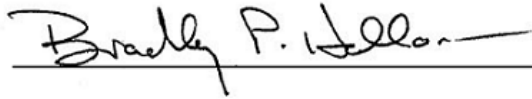
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60 E. Van Buren Street
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