

Before the Illinois Pollution Control Board

Catherine Johnson, DDS and	)	
Eric Johnson, DDS	)	
	)	
Complainants,	)	
	)	
v.	)	PCB 2026-061
	)	
Village of Willowbrook Illinois, Parks and	)	
Recreation Department	)	
	)	
Respondents.	)	

NOTICE OF FILING

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

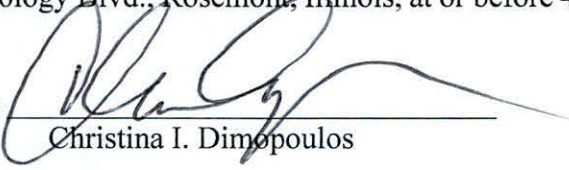
PLEASE TAKE NOTICE that on **August 12, 2026**, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, **RESPONDENT'S MOTION TO DISMISS** and **APPEARANCE** of Michael R. Durkin, copies of which are attached hereto and herewith served upon you.

VILLAGE OF WILLOWBROOK, PARKS
AND RECREATION DEPARTMENT

By: 
Michael R. Durkin
One of the attorneys for Respondent

CERTIFICATE OF SERVICE

I, Christina I. Dimopoulos, a non-attorney, certify that I served this notice by mailing a copy of this **NOTICE OF FILING** and **RESPONDENT'S MOTION TO DISMISS** and **APPEARANCE** of Michael R. Durkin to the person listed above, via electronic mail and U.S. Regular Mail, by placing same in an envelope, postage prepaid, addressed to the above person, and placing same in the U.S. Mail at 9501 Technology Blvd., Rosemont, Illinois, at or before 4:45 PM on this **12th day of August, 2026**.

By: 
Christina I. Dimopoulos

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One of the attorneys for Respondent

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APPEARANCE

The undersigned, Michael R. Durkin, an attorney, enters an appearance on behalf of Respondent, Village of Willowbrook, Parks and Recreation Department.

VILLAGE OF WILLOWBROOK, PARKS
AND RECREATION DEPARTMENT

By: 
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One of the attorneys for Respondent

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RESPONDENT'S MOTION TO DISMISS

Respondent, Village of Willowbrook, Parks and Recreation Department ("Respondent"), by and through its attorneys, Storino, Ramello & Durkin, respectfully moves this Honorable Illinois Pollution Control Board ("PCB"), pursuant to 35 Ill. Admin. Code 101.202 and 103.212, to dismiss the Complaint in this matter as "frivolous" for failing to state a cause of action upon which relief may be granted. ¹

I. INTRODUCTION

On June 24, 2026, Catherine Johnson and Eric Johnson ("Complainants") filed a citizen complaint against the Village of Willowbrook, Illinois Parks and Recreation Department ("Respondent"), alleging that the Respondent violated Section 900.102 of the PCB's noise regulations (35 Ill. Admin Code 900.102) and Section 24 of the Environmental Protection Act ("Act") (415 ILCS 5/24). On July 8, 2026, Complainants filed a Motion for Leave to File an amended complaint, as well as an amended complaint with additional allegations, alleging that the Respondent violated Section 900.102 of the PCB's noise regulations (35 Ill. Admin Code 900.102)

¹ Additionally, as discussed in detail below. The Respondent is seeking dismissal, because Respondent is not an independent suable entity under Illinois law, and therefore Complaint does not state a claim upon which relief may be granted. 735 ILCS 5/2-619(a)(9).

and Section 24 of the (“Act”) (415 ILCS 5/24). On July 10, 2026, Complaints filed a second amended complaint, with additional allegations, and exhibits, alleging that the Respondent violated Section 900.102 of the PCB’s noise regulations (35 Ill. Admin Code 900.102) and Section 24 of the (“Act”) (415 ILCS 5/24) (“Second Amended Complaint”).² Complainants allege in the Second Amended Complaint that on May 14, 2026 Tony and Florence Borse Memorial Community Park, located at 208 Midway Drive, Willowbrook, IL, (Park) reopened with 8 outdoor courts of pickleball causing intense noise from the pickleball hard balls and paddles from 6am to dusk, 7 days a week. (Second Amended Complaint, ¶ 3, 4, 7). Complainants allege that the park shares a property line with their private residence (Second Amended Complaint, ¶ 6). Complainants further allege that the noise is impulsive, high frequency sharp and stressful, causing them harm. (Second Amended Complaint, ¶ 6, 8). Complaints also attach several exhibits to their Second Amended Complaint, including a residential plat of survey alleging depicting their property and a map of the Park (Exhibit “A”); an excerpt of 3 pages of the Village of Willowbrook (“Village”) 2026 Spring/Summer Recreation Program Guide (Exhibit “B”); handwritten “noise violation log” by an unknow author, from an unknown location, which includes dates, times and commentary (Exhibit “C”); February 17, 2026 correspondence from an individual Dale Van Scoyk (Exhibit “D”); an unmarked exhibit, dated May 9, 2023, from Acoustic Associates, Ltd. depicting potential noise levels from not-yet-built pickleball courts at the Park, as well as another Village of Willowbrook Park -Midway Park; an alleged transcription of a voice message (Exhibit “E”); and minutes an April 3, 2024, Regular Meeting of the Plan Commission held on Wednesday April 3, 2024 (Exhibit “F”).

² A review of the PCB docket contains no Motion for Leave to File the Second Amended Complaint. For purposes of Respondent’s Motion to Dismiss, Respondent’s Motion directed to the Complainant’s Second Amended Complaint as the operative pending Complaint.

Complainants do not allege anywhere in the Second Amended Complaint the distance their residence is from the pickleball courts in question.

II. Factual Background

The Village of Willowbrook, is an Illinois home rule municipal corporation organized under the laws of the State of Illinois, having its principal office located within DuPage County, Illinois (“Village”). The Village owns and operates ten (10) park sites on 56.04 acres, including Tony and Florence Borse Memorial Community Park, located at 208 Midway Drive, Willowbrook, Illinois 60527. (See Exhibit “A”, Affidavit of Dustin Kleefisch, ¶ 3, 4).³ The Village of Willowbrook, Illinois Parks and Recreation Department (“Respondent”) is a department of the Village. The Village owns and operates Tony and Florence Borse Memorial Community Park, located at 208 Midway Drive, Willowbrook, Illinois 60527. *Id.* Tony and Florence Borse Memorial Community, is a 17.17-acre neighborhood park that includes a variety of recreational amenities, including, but not limited to, a 0.5-acre pond, three (3) softball diamonds, batting cages, ballparks; team warm-up area, one (1) water spray park, one (1) basketball court, eight (8) pickleball courts, playground equipment, two (2) shelters, walking path, restrooms, and two (2) parking lots (the “Park”). (See Exhibit “A”, Affidavit of Dustin Kleefisch, ¶ 4). The Village organizes a variety of pickleball activities and events at Tony and Florence Borse Memorial Park for residents and non-residents alike, including: lessons and instructional play for adults, teenagers and children, with professional pickleball registry instructors, offered with instruction providing real-time feedback, focus skill instruction and coached gameplay; instructional league and tournament play; family pickleball league; and a fall pickleball scramble league. ”). (See Exhibit “A”, Affidavit of Dustin Kleefisch,

³ The affidavit of Dustin Kleefisch, Director of Parks and Recreation for the Village of Willowbrook is attached hereto, as Exhibit “A” in support of Respondent’s Motion to Dismiss

¶ 9). These pickleball events and activities mentioned are offered to both residents and non-residents, at Village-scheduled dates and times as advertised on the Village's website, and in the Village's Parks and Recreation Program Guide, organized and coordinated by Village staff, after registration and payment of fees to the Village, these events and activities are administered by the Village. (See Exhibit "A", Affidavit of Dustin Kleefisch, ¶ 10).

The Park in general, and specifically the pickleball courts are subject the ordinances, rules and regulations of the Village. (See Exhibit "A", Affidavit of Dustin Kleefisch, ¶ 7). The Village has adopted ordinances governing the use of all parks and facilities, including hours of operation, owned and controlled by the Village of Willowbrook, including the Park. (See Exhibit "A", Affidavit of Dustin Kleefisch, ¶ 6). The Village also has adopted rules and regulations regarding the rental and usage of Village parks and athletic fields, including the pickleball courts at the Park. *Id.* The pickleball courts are subject to the aforementioned general park ordinances, rules and regulations, including hours of operation as posted on the Village of Willowbrook's website, and on signage throughout the Park, but are also subject to additional rules and regulations established by the Village specifically related to pickleball: including the requirements of proper footwear on the courts; prohibition of food, glass or alcoholic beverages, prohibition of pets, prohibition of bicycles, rollerblades, or skateboards, and prohibition against abusing the pickleball nets or other equipment. These rules and regulations are posted on prominent signage at the entrance of the pickleball courts. (See Exhibit "A", Affidavit of Dustin Kleefisch, ¶ 7). The Village ordinance regulating the use of park facilities, the Village's procedures and policies regarding the reservation of park facilities and athletic fields, and rules and regulations established by the Village regulating pickleball, are enforced by the Village of Willowbrook Police Department and Village staff. (See Exhibit "A", Affidavit of Dustin Kleefisch, ¶ 8).

Nowhere in Complaints' Second Amended Complaint do they allege the distance from their residence to the pickleball courts in question. Nowhere in Complaints' Second Amended Complaint do they allege the courts are not operated for the entertainment or recreation of the general public.

III. ARGUMENT

A. Village of Willowbrook, Parks and Recreation Department Is Not a Suable Entity and Therefore Should be Dismissed.

The failure to identify a proper municipal defendant is grounds for dismissal under the Illinois Code of Civil Procedure. 735 ILCS 5/2-619(a)(9). "Only municipal entities may be named as defendants, thus departments or subdivision must be dismissed under the Code, because these discrete subdivisions are not corporate entities and lack the capacity to sue or be sued." *Ferguson v. Patton*, 2013 IL 112488 ¶30-32 (*inspector general not authorized to bring suit*); *Dr. Martin Luther King, Jr. Movement v. City of Chicago*, 435 F. Supp. 1289, 1294 (N.D. Ill. 111 1977) (*department of streets and sanitation dismissed as non-suable entity*); *Jordan v. City of Chicago Dep't of Police*, 505 F. Supp. 1, 4 (N.D. Ill. 111 1980) (*Chicago police department merely a city department without separate legal existence*). Here, Complainants' allegations are brought against the Village of Willowbrook Parks and Recreation Department, a department not independently suable against under Illinois, and therefore does not state a claim upon which relief may be granted and therefore should be dismissed.

B. The Complaint Should be Dismissed as Legally Frivolous

A Complaint, under the Act and PCB's rules is frivolous when it fails to state a cause of action is upon which relief can be granted or when the allegations, even if proved true would not entitle the complaint to relief. *Winnetkans Interested in Protecting Environment (WIPE) v. Illinois Pollution Control Board.*, 55 Ill. App. 3d 475 (1977). The Board has authority under Section 31(b)

of the Act and Board Procedural Rule 103.212 to dismiss complaints as frivolous when they lack legal or factual sufficiency. *Id.* The Board must dismiss a complaint when it alleges violations of statutory provisions or regulations over which the Board has no jurisdiction or regulatory authority. *Hinsdale Golf Club v. Kochanski*, 197 Ill. App. 3d 634 (1990). Complaints allege violations of 415 ILCS 5/24 and 35 Ill. Admin Code 900.102 related to the alleged noise pollution emitting from the Respondent's pickleball courts located at the Park. Based on the exceptions in the language of Sections 25 and 3.310 of the Act, the PCB's noise regulations do not apply to the activity in questions, and therefore the PCB lacks jurisdiction. 415 ILCS 5/25 and 415 ILCS 5/3.10, and the Second Amended Complaint must be dismissed.

C. The PCB Board Lacks Jurisdiction Over the Complaint Because Section 25 of the Act Exempts Organized Amateur Sporting Activities From Noise Regulations.

Complaints allege a violation of 415 ILCS 5/24 based on noise generated by pickleball activities in the Park. Section 24 of the Act states in relevant part: "No person shall emit beyond the boundaries of his property any noise that unreasonably interferes with the enjoyment of life or with any lawful business or activity, so as to violate any regulation or standard adopted by the Board under this Act." 415 ILCS 5/24. However, the Act divests the PCB's authority to regulate noise emissions from organized amateur or professional sporting activities. Section 25 states in relevant part, "No Board standards for monitoring noise or regulations prescribing limitations on noise emissions shall apply to any organized amateur or professional sporting activity except as otherwise provided in this Section." 415 ILCS 5/25.

The pickleball activities at issue in this case plainly constitute "organized amateur or professional sporting activity within the meaning of Section 5/25. Pickleball is a recognized amateur sport played at recreational facilities throughout the state. The pickleball activities at the

Park are carried out for the purpose of providing education, instruction and entertainment for the general public. The Village organizes a variety of pickleball activities and events at Tony and Florence Borse Memorial Park for residents and non-residents alike, including: lessons and instructional play for adults, teenagers and children, with professional pickleball registry instructors, offered with instruction providing real-time feedback, focus skill instruction and coached gameplay; instructional league and tournament play; family pickleball league; and a fall pickleball scramble league. (See Exhibit “A”, Affidavit of Dustin Kleefisch, ¶ 9). These pickleball events and activities mentioned are offered to both residents and non-residents, at Village-scheduled dates and times as advertised on the Village’s website, and in the Village’s Parks and Recreation Program Guide, organized and coordinated by Village staff, after registration and payment of fees to the Village, these events and activities are administered by the Village. (See Exhibit “A”, Affidavit of Dustin Kleefisch, ¶ 10). The participants engage in pickleball as an amateur recreational sporting activity and not as a business. Pursuant to Section 25 of the Act, the pickleball activities at the Park fall within the statutory exemption and therefore no Board standards for monitoring noise or regulations for prescribing limitations apply to those activities. Therefore, the Board lacks jurisdiction to adjudicate the Complaint, and must be dismissed.

D. Complainants Fail to Allege Violations of 35 Ill. Admin. Code 900.102.

Complaints allege the Respondent to be in violation of PCB’s numerical standards in 35 Ill. Admin. Code 900.102. based on noise generated by the pickleball activities at the Park. Section 900.102 states, in relevant part that “A person must not cause or allow the emission of sound beyond the boundaries of that person’s property, as defined by Section 25 of the Act (415 ILCS 5/25), that causes noise pollution in Illinois or violates any provision of this Chapter” 35 Ill. Admin. Code 900.102. Like the law stated in Section C above, Illinois Courts have determined

that Section 900.102 is also subject to the limitations set forth in Sections 25 and 3.310 of the Act. *Hinsdale Golf Clu v. Kochanski*, 197 Ill. App. 3d 634 (2d Dist. 1990). Because the pickleball activities at the Park are “organized amateur or professional sporting activity” (as discussed above), as defined by Section 3.310 of the Act (415 ILCS 5/3.310), they are exempt from the PCB’s noise standards and regulations pursuant to Section 25 of the Act (415 ILCS 5/25).

Both Illinois Courts and the PCB have held that the PCB must dismiss complaints seeking to regulate activities that are exempt under the Act in Section 5/25. *Mr. and Mrs. Don Williams, et al. v. Schaumburg Park District*, 1996 Ill. ENV LEXIS 505 (Decided May 16, 1996).

Here, and as described in the fact section in more detail, the Village owns, controls, and regulates the activities in the park and pickleball specifically through a system of laws, regulations, and pickleball specific rules. Variety of lessons, leagues, and games are available to the public for entertainment purposes. The Complaint has not argued anything to the contrary. As such, the pickleball activities clearly meet the definition of “organized amateur or professional sporting activity” and therefore the PCB lacks jurisdiction over this matter pursuant to Section 25 and 3.310 of the Act and therefore exempt.

E. CONCLUSION

For the reasons stated above, Complainants have brought this claim against a non-suable entity, as well as brought claims did not state a valid cause of action and therefore should be dismissed as frivolous.

WHEREFORE, Respondent, Village of Willowbrook Parks and Recreation Department respectfully request, that this Honorable Board dismiss the Complaint, as “frivolous” for failing to state a claim.

Respectfully submitted,

STORINO, RAMELLO & DURKIN

By: /s/ Michael R. Durkin

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One of the attorneys for Respondent

EXHIBIT A

Affidavit of Dustin Kleefisch

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Recreation Department	)	
	)	
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AFFIDAVIT OF DUSTIN KLEEFISCH

Dustin Kleefisch, being first duly sworn on oath, deposes and states as follows:

1. I am the Director of Parks and Recreation of the Village of Willowbrook, an Illinois municipal corporation organized under the laws of the State of Illinois, having its principal office located within DuPage County, Illinois ("Village"), and am authorized to make this Affidavit.

2. I am familiar with the parks owned and operated by the Village of Willowbrook.

3. The Village of Willowbrook owns and operates ten (10) park sites on 56.04 acres <https://www.willowbrookil.org/137/Parks> (Last visited 8/12/26).

4. Tony and Florence Borse Memorial Community Park, located at 208 Midway Drive, Willowbrook, Illinois 60527, is a 17.17-acre neighborhood park that includes a variety of recreational amenities, including, but not limited to, a 0.5-acre pond, three (3) softball diamonds, batting cages, ballparks; team warm-up area, one (1) water spray park, one (1) basketball court, eight (8) pickleball courts, playground equipment, two (2) shelters, walking path, restrooms, and two (2) parking lots. See <https://www.willowbrookil.org/BusinessDirectoryII.aspx?lngBusinessCategoryID=22> (Last visited 8/12/26).

5. The Parks and Recreation Department is a department of the Village of Willowbrook which, in addition to other duties, operates and oversees the ten (10) park sites for the Village of Willowbrook.

6. As the Director of the Parks and Recreation Department of the Village of Willowbrook, I am familiar with the Village's ordinances regulating and governing the use of all parks and facilities, including hours of operation, owned and controlled by the Village of Willowbrook, https://codelibrary.amlegal.com/codes/willowbrookil/latest/willowbrook_il/0-0-0-3905 (Last visited 8/12/26), as well as the Village's procedures and policies regarding the reservation of any park or athletic facilities.

See, <https://www.willowbrookil.org/DocumentCenter/View/81/2026-Park-and-Athletic-Facility-Field-Usage-Policy-and-Fee-Schedule?bidId=> (Last visited 8/12/26).

7. As the Director of Parks and Recreation, I am aware of the pickleball courts located at Tony and Florence Borse Memorial Park ("Park") and have knowledge that the pickleball courts are subject to the aforementioned general park ordinances, rules and regulations, including hours of operation as posted on the Village of Willowbrook's website, and on signage throughout the Park, but also subject to additional rules and regulations established by the Village specifically related to pickleball, including the requirements of proper footwear on the courts; prohibition of food, glass or alcoholic beverages, prohibition of pets, prohibition of bicycles, rollerblades, or skateboards, and prohibition against abusing the pickleball nets or other equipment. These rules and regulations are posted on prominent signage at the entrance of the pickleball courts.

8. The Village ordinance regulating the use of park facilities, the Village's procedures and policies regarding the reservation of park facilities and athletic fields, and rules and regulations

established by the Village regulating pickleball, are enforced by the Village of Willowbrook Police Department and Village staff.

9. The Village organizes a variety of pickleball activities and events at Tony and Florence Borse Memorial Park for residents and non-residents alike, including:

- lessons and instructional play for adults, teenagers and children, with professional pickleball registry instructors, offered with instruction providing real-time feedback, focus skill instruction and coached gameplay;
- instructional league and tournament play;
- family pickleball league; and
- fall pickleball scramble league.

10. The pickleball events and activities mentioned in the aforementioned paragraph, are offered to both residents and non-residents as advertised on the Village's website, at Village-scheduled dates and times as advertised on the Village's website, and in the Village's Parks and Recreation Program Guide, organized and coordinated by Village staff, after registration and payment of fees to the Village.

FURTHER AFFIANT SAYETH NAUGHT.


Dustin Kleefisch
Director of Parks and Recreation
Village of Willowbrook

Subscribed and sworn to before me this 12th day of August, 2026.


Notary Public

