ILLINOIS POLLUTION CONTROL BOARD
September 17, 2026

CATHERINE JOHNSON and ERIC JOHNSON,	)	
Complainants,	)	
v.	)	PCB 26-61
	)	(Citizens Enforcement - Noise)
VILLAGE OF WILLOWBROOK ILLINOIS, PARKS AND RECREATION DEPARTMENT,	)	
Respondent.	)	

ORDER OF THE BOARD (by A. Liva):

Catherine Johnson and Eric Johnson filed a *pro se* complaint against a respondent they name as the "Village of Willowbrook Illinois, Parks and Recreation Department." The complaint, which alleges noise pollution from pickleball courts in Borse Memorial Community Park (Borse Park) at 208 Midway Drive, Willowbrook, DuPage County, also refers to respondent as the "Village of Willowbrook/Parks & Recreation Dept." The Johnsons have since sought leave to amend their complaint twice, but neither proposed amendment concerns respondent's name.

The parties agree on there being only one respondent in this proceeding but not on who that respondent is. Central to today's order, however, is the Board's finding that regardless of whether respondent is the Village of Willowbrook's Parks and Recreation Department (Department) or the Village of Willowbrook, a municipal corporation (Village), this case must be dismissed.

The Johnsons did not properly serve the second amended complaint (or any complaint) on the Department. Despite that, the Department voluntarily submitted to the Board having personal jurisdiction over it by filing a motion to dismiss without objecting to personal jurisdiction. Below, the Board grants the Department's motion to dismiss. Specifically, the Board dismisses the Department with prejudice because the Department has no independent legal existence and therefore lacks the legal capacity to be sued.

The Johnsons also failed to properly serve the second amended complaint (or any complaint) on the Village. Even if the Board were to find misnomer and caption the Village as respondent, the Board would have no personal jurisdiction over the Village due to the improper service. Below, the Board dismisses the Village without prejudice. Therefore, nothing in this order precludes the Johnsons from filing a new complaint against the Village.

In this order, the Board first provides the case's procedural background. In doing so, the Board rules on the Johnsons' motions for leave to file amended complaints and their motion for

leave to supplement their response to the Department's motion to dismiss. The Board then addresses service and personal jurisdiction before turning to the Department's motion to dismiss and the Johnsons' motion to correct misnomer.

PROCEDURAL BACKGROUND AND PRELIMINARY MOTIONS

On June 24, 2026, the Johnsons filed their original complaint. On July 8, 2026, they filed a motion for leave to file an amended complaint to correct a statutory citation, attaching the amended complaint. The Board grants the motion and accepts the filing of the amended complaint. On July 10, 2026, the Johnsons filed a motion for leave to file a second amended complaint and separately filed the second amended complaint. The Johnsons state that the amendments add six exhibits to the complaint. The Board grants the motion and accepts the filing of the second amended complaint.

On August 12, 2026, the Department filed a motion to dismiss the second amended complaint (Mot. Dismiss). The Department seeks dismissal on two grounds: first, the Department argues that it is not a legal entity and therefore it cannot be sued; and second, the Department argues that pickleball at the Borse Park courts falls within the "organized amateur or professional sporting activity" exemption from Board noise regulations. Mot. Dismiss at 5-8.

On August 13, 2026, the Johnsons filed their response to the Department's motion to dismiss (Resp. Dismiss), which includes a motion to correct misnomer. On August 17, 2026, the Johnsons filed a motion for leave to supplement the response with exhibits, attaching the exhibits, which include a July 15, 2026 noise study conducted by GZA GeoEnvironmental, Inc. for the Village of Willowbrook; a July 27, 2026 Village of Willowbrook Staff Report to the Village Mayor and Board of Trustees regarding the noise study; and the agenda of the July 27, 2026 Willowbrook Committee of the Whole meeting. On August 31, 2026, the Department filed a response opposing the Johnson's motion for leave to supplement. On September 2, 2026, the Johnsons filed a motion for leave to file a reply, attaching the reply and certified copies of the above-described exhibits.

The Board denies the Johnsons' motion for leave to supplement their response because the supplemental materials are not responsive to either ground of the Department's motion to dismiss. The Board also denies the Johnsons' motion for leave to file a reply because the Johnsons have not shown they will suffer material prejudice absent the reply, and the certified exhibits attached to the reply are not responsive to the Department's opposition to the Johnsons' motion for leave to supplement. Nothing in these rulings precludes the Johnsons from seeking to have these exhibits admitted in any future enforcement proceeding the Johnsons might initiate. The Board further notes that Illinois is a fact-pleading state, which requires the pleader to set out the ultimate facts supporting its cause of action; fact pleading does not require a complainant to set out all its evidence in its complaint. United City of Yorkville v. Hamman Farms, PCB 08-96, slip op. at 15 (Oct. 16, 2008).

SERVICE AND PERSONAL JURISDICTION

The Board's procedural rules require that a complaint be served on a respondent by U.S. Mail with a recipient's signature recorded, by third-party commercial carrier with a recipient's signature recorded, or by personal service. 35 Ill. Adm. Code 101.302(c)(4), 103.204(a). In this case, the Johnsons sent the original complaint, the first amended complaint, and the second amended complaint to the "Village of Willowbrook Illinois, Parks and Recreation Department" using certified U.S. Mail. They provided USPS tracking documentation showing the respective delivery dates and times, and that each of the three complaints was left with an unnamed individual. *See* proofs of service filed June 29, July 13, and July 14, 2026. Regardless of whether the Johnsons were attempting to serve the Department or the Village, the Board finds that the service did not comply with the Board's procedural rules because on no occasion was the recipient's signature obtained.

There are other problems with service here. The Board does not have procedural rules specific to serving complaints on local governmental entities. However, for matters on which the Board's procedural rules are silent, the Board may look to the Illinois Code of Civil Procedure for guidance. 35 Ill. Adm. Code 101.100(b). Section 2-211 of the Illinois Code of Civil Procedure addresses service in actions against public, municipal, governmental, and quasi-municipal corporations, including villages:

> In actions against public, municipal, governmental or quasi-municipal corporations, summons may be served by leaving a copy with the chairperson of the county board or county clerk in the case of a county, with the mayor or city clerk in the case of a city, *with the president of the board of trustees or village clerk in the case of a village*, with the supervisor or town clerk in the case of a town, and with the president or clerk or other officer corresponding thereto in the case of any other public, municipal, governmental or quasi-municipal corporation or body. 735 ILCS 5/2-211 (2024) (emphasis added).

The First District Appellate Court applied Section 2-211 in Miller. There, a copy of a summons was left with an employee in the office of the Stickney village clerk, rather than with the president of the board of trustees or the village clerk. Miller v. Town of Cicero, 225 Ill. App. 3d 105, 106, 110 (1st Dist. 1992). The appellate court found that "service was obviously not in compliance with the plain language of the statute" (*i.e.*, Section 2-211) and therefore held that the trial court erred in denying Stickney's motion to quash service of summons. *Id.* at 110, 115.

The Board has previously looked to Section 2-211 for guidance. In Trepanier, complainants hand-delivered their complaint to a receptionist at the office of the president of the University of Illinois at Chicago. Trepanier v. Board of Trustees of the University of Illinois at Chicago, PCB 97-50, slip op. at 4 (Nov. 21, 1996). As the University is a public corporation, it is "served through its 'president, clerk or other officer corresponding thereto . . . .'" *Id.*, quoting 735 ILCS 5/2-211. The receptionist held none of these roles. *Id*. The Board found that the University was not properly served. *Id.* The Board dismissed the University from the case as the Board lacked personal jurisdiction over the University. *Id*. at 5.

Under the Board's procedural rules, "[s]ervice of a document upon a party must be made upon a person authorized by law to receive service on behalf of the party." 35 Ill. Adm. Code 101.304(b)(1). Even if the Johnsons had fulfilled all steps for service, as the Department is merely an organizational division of the Village, with no separate legal existence (*see infra* at 5), the Board finds that service of a complaint cannot be legally effectuated upon the Department itself in lieu of the Village. *See* Clayborne v. City of Chicago Department of Water Management, PCB 15-120, slip op. at 3 (Mar. 5, 2015) (granting respondent city department's motion to dismiss for lack of personal jurisdiction where complaint was sent to city department instead of mayor or city clerk under Section 2-211).

On the other hand, service of a complaint may be legally effectuated upon the Village. Section 2-211 requires that when serving a complaint on a village, it is the president of the village board of trustees or the village clerk who must be served. Nothing in this record, however, shows that the Village's president or the Village's clerk was served. The Board finds that the Johnsons have not properly served the Village under Section 2-211.

Even if the Village were aware of this proceeding or the attempted service, that would have no effect on the Board's finding of deficient service. *See* Miller, 225 Ill. App. 3d at 110 (without proper service of process, a "judgment is void even where defendant had actual knowledge of the proceedings"); Bell Fed. Sav. & Loan Ass'n v. Horton, 59 Ill. App. 3d 923, 930 (5th Dist. 1978) ("The fact that defendants had actual knowledge of the attempted service does not render the service effectual if in fact the process was not served in accordance with the requirements of the statute.").

The Board's procedural rules allow for contesting personal jurisdiction "by filing a motion with the Board consistent with Section 2-301 of the [Illinois] Code of Civil Procedure." 35 Ill. Adm. Code 101.400(a)(5); *see also* 35 Ill. Adm. Code 101.304(b)(5). Section 2-301 explains how to object to personal jurisdiction and how those objections are waived:

> (a) Prior to the filing of any other pleading or motion . . . a party may object to the court's jurisdiction over the party's person, either on the ground that the party is not amendable to process of a court of this State or on the ground of insufficiency of process or insufficiency of service of process, by filing a motion to dismiss the entire proceeding or any cause of action involved in the proceeding by filing a motion to quash service of process.
>
> ***
>
> (a-6) A party filing any other pleading or motion prior to the filing of a motion objecting to the court's jurisdiction over the party's person as set forth in subsection (a) waives all objections to the court's jurisdiction over the party's person prospectively . . . . 735 ILCS 5/2-301(a), (a-6) (2024).

The Department's first filing was its motion to dismiss the second amended complaint. Within that motion, the Department does not object to the Johnsons' deficient service or otherwise contest personal jurisdiction. By making a filing without challenging personal

jurisdiction, the Department has waived objection and submitted to the Board having personal jurisdiction over it. *See* BAC Homes Loans Servicing, LP v. Mitchell, 2014 IL 116311, ¶ 35 ("Personal jurisdiction is established either by effective service of process or by a party's voluntary submission to the court's jurisdiction").

Unlike the Department, the Village, which has filed nothing in this proceeding, has not submitted to the Board having personal jurisdiction over it. Therefore, given the Johnsons' deficient service, the Board finds that it lacks personal jurisdiction over the Village. *See* Trepanier, PCB 97-50, slip op. at 5; Claybourne, PCB 15-120, slip op. at 3.

THE DEPARTMENT'S MOTION TO DISMISS

The Department seeks dismissal of the second amended complaint on two grounds—first, that the Department is not "independently suable" under Illinois law; and second, that pickleball play on the courts at Borse Park constitutes an "organized amateur or professional sporting activity" exempt from the Board's noise regulations. Mot. Dismiss at 5-8. As discussed below, the Board agrees with the Department on the first ground and therefore does not reach the second one.

When ruling on a motion to dismiss, the Board takes all well-pleaded factual allegations of the complaint as true and draws all reasonable inferences from them in favor of complainant. *See*, *e.g.*, Beers v. Calhoun, PCB 04-204, slip op. at 2 (July 22, 2004). With its motion to dismiss, the Department attaches the affidavit of its director describing itself as "a department of the Village of Willowbrook" and describing the Village as "an Illinois municipal corporation organized under the laws of the State of Illinois." Mot. Dismiss, Affidavit at ¶¶ 1, 5. Neither the second amended complaint nor the Johnsons' response to the motion to dismiss contradicts these descriptions.

It is well-settled that departments of municipalities have no independent legal existence and therefore lack the legal capacity to be sued. For example, in Jordan, plaintiff filed a complaint against the "City of Chicago, Department of Police" and Jewel Companies, Inc. Jordan v. City of Chicago, Department of Police, 505 F. Supp. 1 (N.D. Ill. 1980). The City of Chicago filed a motion to strike its Department of Police from the complaint, which was granted by the United States District Court for the Northern District. *Id.* at 3-4. The court reasoned that the Chicago Police Department is not a "suable entity, but merely a department of the City of Chicago which does not have a separate legal existence." *Id*. at 4.

In King, Jr. Movement, plaintiffs filed a complaint against eight defendants, including both the City of Chicago and its Department of Streets and Sanitation. Dr. Martin Luther King, Jr. Movement v. City of Chicago, 435 F. Supp. 1289, 1291 (N.D. Ill. 1977). The Department of Streets and Sanitation alleged it is not a "suable entity" and the Northern District agreed. *Id.* at 1294. "The department is merely an organizational division of the City and does not enjoy independent legal existence." *Id*. The court therefore struck the Department of Streets and Sanitation as a separate defendant. *Id*.

The Board finds that because the Department is "merely an organizational division" of the Village and "does not enjoy independent legal existence" (King, Jr. Movement, 435 F. Supp. at 1294), the Department is not a "suable entity" (Jordan, 505 F. Supp. at 4). On that ground alone, the Board grants the Department's motion to dismiss. In doing so, the Board dismisses the Department with prejudice.

THE JOHNSONS' MOTION TO CORRECT MISNOMER

In their response to the Department's motion to dismiss, the Johnsons claim that the complaint's inclusion of the Department in respondent's name was merely a "misnomer." Resp. Dismiss at 2. According to the Johnsons, the Village "was always named first as Respondent" and the addition of the Department was simply "extra-descriptive text." *Id.* They move the Board to amend the caption and pleadings to reflect the Village as respondent. *Id.*

A "misnomer" is "a mistake in the name of a properly included party." 35 Ill. Adm. Code 101.202. "Misnomer of a party is not a ground for dismissal; the name of any party may be corrected at any time." 35 Ill. Adm. Code 103.202(c). However, "[t]he rule that misnomer is not a ground for dismissal is a narrow one and applies only where an action is brought and summons is served upon a party intended to be made a defendant." Barbour v. Fred Berglund & Sons, Inc., 208 Ill. App. 3d 644, 648 (1st Dist. 1990). Misnomer therefore applies "only to correctly joined and served, but misnamed, parties." *Id.*

As the Board found above, the Village was not properly served. But the Board need not rule on the Johnsons' motion to correct misnomer. Granting the motion would not remedy the deficient service on and confer personal jurisdiction over the Village. And the Board has already dismissed the Department with prejudice. Now, because the Board has no personal jurisdiction over the Village, the Board dismisses it without prejudice. *See* Trepanier, PCB 97-50, slip op. at 5 (dismissed University without prejudice as Board lacked personal jurisdiction over it due to improper service).

CONCLUSION

The Board dismisses the second amended complaint as to the Department with prejudice because it has no legal existence separate from the Village and therefore lacks the legal capacity to be sued. The Board dismisses the second amended complaint as to the Village without prejudice based on lack of personal jurisdiction due to improper service. The Board therefore closes this docket.

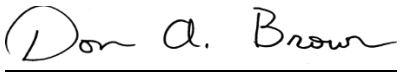
IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2024); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final

orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

<table>
<tr><th colspan="2">Names and Addresses for Receiving Service of
Any Petition for Review Filed with the Appellate Court</th></tr>
<tr><th>Parties</th><th>Board</th></tr>
<tr><td>Catherine and Eric Johnson
215 75th Street
Willowbrook, Illinois 60527
twothirty@comcast.net</td><td rowspan="2">Illinois Pollution Control Board
Attn: Don A. Brown, Clerk
60 East Van Buren Street, Suite 630
Chicago, Illinois 60605
Don.Brown@Illinois.gov</td></tr>
<tr><td>Michael R. Durkin
9501 West Devon Avenue, Suite 800
Rosemont, Illinois 60018
Mdurkin2@srd-law.com</td></tr>
</table>

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 17, 2026, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board