## ILLINOIS POLLUTION CONTROL BOARD November 20, 1980

LARCHMON'	I WATER CORPORATION,	)
	Petitioner,	)
	v.	) PCB 80-141
ILLINOIS AGENCY,	ENVIRONMENTAL PROTECTION	) }
	Respondent.	)

BRADLEY T. KOCH APPEARED ON BEHALF OF THE PETITIONER.
DAVID L. RIESER AND JOHN D. WILLIAMS APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by J.D. Dumelle):

On August 7, 1980, Larchmont Water Corporation (Larchmont) filed a Petition for Variance from Rules 207 and 305 of the Board's Rules and Regulations, Chapter 6: Public Water Supplies. The Illinois Environmental Protection Agency filed a Recommendation of denial of the variance on September 8, 1980. By order of the Board of August 21, 1980, Larchmont's request for variance from Rule 207 was dismissed. On October 24, 1980, hearing was held on the Rule 305 variance request. No members of the public were present and no public comments were received by the Board.

Larchmont is an independent corporation serving the residential water needs of 31 families in the Larchmont Subdivision which is surrounded by the City of Rockford, but which has not been annexed.

Larchmont requests a variance from the mandatory chlorination requirement of Rule 305. In closing argument, Larchmont made it clear that the arbitrary or unreasonable hardship is not simply a matter of cost, but rather arises due to the possibility that Senate Bill 1404 or the Board's regulatory proceeding in R78-8 may result in Larchmont being exempted from that rule (R.86-7). If so, Larchmont argues that being required to spend even \$1 for chlorination equipment would be an arbitrary and unreasonable hardship.

Larchmont requests that it be treated the same as Bradley Heights Water System, Inc., which was granted a variance from Rule 305 (37 PCB 357). However, there are several differences between the two proceedings. First, the Bradley Heights system

was pervaded with nuisance iron bacteria (37 PCB 358). No such problem is alleged regarding the Larchmont system. Second, Bradley Heights was alleged to be on the verge of annexation such that the entire system might have to be replaced in the near future (37 PCB 359). No such pending annexation is alleged in the present record. Third, on October 30, 1980, the Board dismissed the R78-8 proceedings and the Rule 305 requirement remains in effect. Fourth, Senate Bill 1404 was not adopted into law during the last legislative session and it is not known when, if ever, it will be reintroduced.

The Board finds that there is no showing of an arbitrary or unreasonable hardship. The only hardship alleged is cost. John Rafter, a civil engineer who reviewed Larchmont's water system testified that equipment would cost \$750, electrical work \$65, plumbing \$50, heating and miscellaneious inprovements to the well house \$220, and profit, overhead and engineering fees \$715 (R.42-3 and Ex.5). This totals \$1800. Even if Larchmont's own figures are used, substracting costs which are solely attributed to fluoridation, the first year cost would be \$52.55 per capita and the annual cost thereafter would be \$8.50 per capita (Ex.8). However, these figures are based upon the installation of both fluoride and chlorine metering equipment, such that the heating and miscellaneous expenses would be incurred in any case and other costs may also be lessened to some extent (R.55-59). its recommendation the Agency estimates a total of \$968. Thus, Larchmont's figures may be double the actual cost.

Neither figure indicates an arbitrary or unreasonable hardship. There is no showing that the Larchmont system is impacted by Rule 305 to a greater degree than any other system of its size. Variance is, therefore, denied.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

## <u>ORDER</u>

Larchmont Water Corporation is hereby denied variance from Rules 207 and 305 of Chapter 6: Public Water Supplies.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the above day of frents, 1980 by a vote of

Christan L. Moffett Clerk
Illinois Pollution Control Board