

ILLINOIS POLLUTION CONTROL BOARD
January 4, 1996

RALEIGH REALTY CORPORATION/)	
KEAN BROTHERS, INC.,)	
)	
Petitioner,)	PCB 96-52
)	(UST Appeal)
v.)	
)	
ILLINOIS ENVIRONMENTAL)	PCB 96-124
PROTECTION AGENCY,)	(UST Appeal)
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

This matter is before the Board on a motion for reconsideration filed by Raleigh Realty Corporation (Raleigh) on December 22, 1995. Raleigh requests the Board to reconsider the dismissal of its UST appeal, originally docketed in PCB 96-52 and captioned as Kean Brothers v. IEPA. The Board dismissed the appeal and closed the docket at its December 20, 1995 meeting because no petition was received by December 7, 1995.¹

Raleigh requests that the Board reconsider dismissal on the basis that the petition for review was in fact filed on December 6, 1995. Review of the filings in this matter indicated that due to the incorrect captioning of the December 6th petition for review and petitioner's failure to use the docket number (PCB 96-52) reserved for this appeal, the petition was inadvertently docketed as PCB 96-124. PCB 96-124 was also dismissed on December 20, 1995 as untimely filed.

The motion for reconsideration is hereby granted. PCB 96-52 is hereby reinstated; however PCB 96-124 remains closed. The caption is corrected to accurately name the parties in this matter and accordingly, this matter is hereby accepted for hearing. Additionally, the \$75.00 filing fee received on December 6, 1995 in PCB 96-124 will be applied toward docket PCB 96-52.

The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as extended by a waiver (petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105). The Board will assign a hearing officer to conduct hearings consistent with this order, and the Clerk of the Board shall

¹The parties in PCB 96-52 had jointly requested a 90-day extension period in which to file its petition for review which the Board granted on September 21, 1995. The petition was therefore due on December 7, 1995.

promptly issue appropriate directions to that assigned hearing officer.

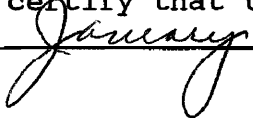
The assigned hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses and all actual exhibits to the Board within five days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. Absent any future waivers of the decision deadline, the statutory decision deadline is now June 28, 1996 pursuant to a statutory decision deadline waiver filed by with the Board on the January 2, 1996. The Board meeting immediately preceding the due date is scheduled for June 20, 1996.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible. The Board notes that Board rules (35 Ill. Adm. Code 104.180) require the Agency to file its recommendation for disposition of the petition within 30 days of filing of the petition.

IT IS SO ORDERED.

J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 4th day of January, 1996, by a vote of 6-1.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board