

ILLINOIS POLLUTION CONTROL BOARD
August 13, 1971

WALTER R. SEEGREN)
)
)
 v.) # PCB 71-106
)
)
 ENVIRONMENTAL PROTECTION AGENCY)

Mr. Ellis E. Fuqua, Waukegan, for Walter R. Seegren

Mr. Roger C. Ganobcik, for the Environmental Protection Agency

Opinion of the Board (by Mr. Currie):

The petitioner seeks a variance to allow the extension of a sewer and the connection of two eighteen-unit apartment buildings to Waukegan sewers tributary to the overloaded Waukegan sewage treatment plant of the North Shore Sanitary District. Such connections were forbidden by our order in League of Women Voters v. North Shore Sanitary District, # 70-7 (March 31, 1971). After hearing, we denied the present petition August 5, 1971. This opinion gives our reasons.

The buildings in question were completed in January or February of this year, but the Environmental Protection Agency denied a sewer construction permit before the entry of our order on the basis of Agency policy (R. 43, 57-58; petition, pp. 3-4). Our March 31 opinion called attention to the possible use of package plants or septic tanks to avoid the necessity for adding to the existing overload. After filing the petition, the petitioner proceeded to install a septic tank serving both buildings, at a cost of \$5000, and the buildings are now almost 90% occupied (R. 68, 69, 89).

In short, the sewer ban is not interfering with the petitioner's ability to make the intended use of his land. It is true that additional expenditures have been incurred--to the extent of about six weeks' rental (R. 79-80)--, and that some money was lost because of the lost weeks while installing the septic tank. But these losses seem small compared with the benefits of keeping the additional flow out of Lake Michigan, and in any event they have already been incurred. To grant the variance now would do nothing for the petitioner, and it would harm the Lake. We think the petitioner has commendably done what our March 31 order contemplated: He has found a way of utilizing his property for the intended use without causing harm to the Lake, and at a cost we deem entirely reasonable.

As for the question of what will happen to the septic tank after the sewer ban is lifted, that is a question we can deal with by regulations governing the use of septic tanks, which are now under consideration. Granting this variance today would not require petitioner to connect to the sewer; to do so would cause him extra expense, and there is no showing that the septic tank we asked him to employ is illegal.

The testimony indicated that two additional buildings are under construction, and clearly the petitioner would like permission to connect them to the sewer. The petition, however, makes no such request. In any case, a permit from the Agency would be required to the extent that a sewer extension is at issue; the proper route is to apply for an EPA permit and, if desired, to seek Board review in the event of a denial. Moreover, as we have said above, we believe the septic tank is an acceptable alternative at reasonable cost, assuming, as the testimony suggests, that soil and other conditions are suitable (R. 92, 104). That to deny permission to connect these buildings to the sewer would deprive the residents of a swimming pool until the ban is lifted hardly seems compelling. To do without such luxuries for a time is not the kind of hardship that would justify further pollution of the Lake Michigan beaches.

This opinion constitutes the Board's findings of fact and conclusions of law.

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion this 13th day of August, 1971.

