

ILLINOIS POLLUTION CONTROL BOARD
August 30, 1971

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

Ellis E. Fuqua, attorney for Walter R. Seegren
Roger C. Ganobcik, attorney for the Environmental Protection Agency

Dissenting Opinion (by Mr. Aldrich):

I disagree with the majority of the Board and support the dissenting opinion of Mr. Kissel.

Petitioner requested a variance from the Board's Order of March 31, 1971, banning further connections to the sewer lines of the North Shore Sanitary District. He wishes to connect two eighteen-unit apartment buildings to the District's Waukegan lines.

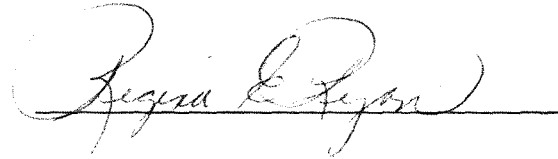
The buildings in question were completed prior to our entry of the Order prohibiting new sewer connections. However, the Environmental Protection Agency refused to grant petitioner a sewer construction permit. I do not address this dissent to the appropriateness of the Agency's action but rather to what the Board's disposition of the request should be.

After being denied a permit to attach the buildings to the sewer, Seegren installed a septic tank to serve both buildings. Although this action provided an interim solution and permitted the buildings to be occupied, it is of doubtful long-term acceptability. The record of septic systems in terms of reliability is not a good one. A system of large capacity, as is required here, is particularly suspect.

I have consistently held that anyone who, prior to the sewer ban, had made a substantial commitment beyond bare purchase of a lot should be entitled to use existing sewer lines (see my dissenting opinion in Robert C. Wagnon v. EPA, PCB 71-85). Certainly Seegren had made such a commitment. He had obtained building permits from the City of Waukegan at a cost of \$1,954.10 each. Construction was completed in January or February of this year. Seegren clearly expended large sums of money in reliance upon his ability to use the sewers.

The potential effect on the environment of the wastes from the apartments in question is minimal in relation to the total load to the sewer system. In my judgment the hardship imposed on petitioner from denial of his request greatly overrides possible damage to the environment. I would grant the variance.

I, Regina E. Ryan, Clerk of the Board, certify that Dr. Samuel R. Aldrich submitted the above dissenting opinion on this 30 day of August, 1971.

A handwritten signature in cursive script, reading "Regina E. Ryan", is written over a horizontal line.