

ILLINOIS POLLUTION CONTROL BOARD
May 18, 1995

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|-----------------------------|---|-----------------------|
| DENNIS MANARCHY, MARY BETH |) | |
| MANARCHY, CHRIS MANDOLINE, |) | |
| and BEVERLY KAGY-MANDOLINE, |) | |
| |) | |
| Complainants, |) | |
| |) | |
| v. |) | PCB 95-73 |
| |) | (Enforcement - Noise) |
| THE GOTHAM NIGHTCLUB and |) | |
| JJJ & ASSOCIATE, INC., |) | |
| |) | |
| Respondents. |) | |

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

This matter is before the Board pursuant to a motion to dismiss and vacate filed by the respondents on April 21, 1995 to which the complainants filed a response on April 25, 1995. Gotham is requesting that we vacate our order of March 16, 1995 which accepted this case for hearing, and find that the complaint is either duplicitous or frivolous. On May 4, 1995, we directed Gotham to provide the Board with a copy of a citation pending before the 1st Municipal District, City of Chicago, Department of the Environment and provide the Board with the status of that case by May 11, 1995 so that the Board may determine whether two actions pending before the 1st Municipal District, City of Chicago and the City of Chicago Local Liquor Control Commission cause this instant complaint to be duplicitous and therefore subject to dismissal. We further allowed the complainants to file a response by May 16, 1995.

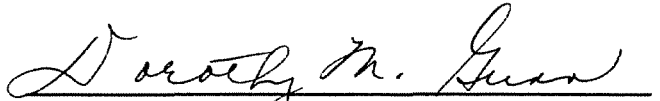
On May 10, 1995, Gotham provided the Board with the a copy of the citation and indicated that the matter has been continued until June 13, 1995. Gotham however, did not inform the Board, as did the complainants in their response, that the matter has been continued until June 13, 1995 in order for the court to consider a motion to dismiss filed by Gotham. The complainants have attached a copy of the motion to dismiss to the response (Exhibit C). The information provided by Gotham and the complainants further indicates that Gotham has been requested by the corporation counsel for the City of Chicago to provide a noise abatement plan in determining fines which may be imposed on Gotham if Gotham is found in violation of the City's municipal ordinance on noise.

On our own motion, we are entering a stay in this case pending the 1st Municipal District's resolution of the motion to dismiss the citation issued by the City of Chicago. From the information provided by the parties, we note that a hearing will take place on June 13, 1995 in the 1st Municipal District, and therefore, the parties shall file status reports on June 30, 1995

indicating the court's ruling on the motion to dismiss, if any. If the court does not rule on the motion to dismiss, Gotham shall inform the Board as to the dates of any scheduled hearings on the motion to dismiss and/or the specific status of the case in the 1st Municipal District. Additionally, the status reports shall indicate the status of the second matter pending before the City of Chicago Local Liquor Control Commission. Finally, we direct the Board hearing officer to continue the hearing in this case, which is currently scheduled for May 22, 1995, until such time as the Board lifts the stay and rules upon Gotham's motion to dismiss and vacate.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 18th day of May, 1995, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board