

ILLINOIS POLLUTION CONTROL BOARD

December 16, 1993

LEO G. FORE,)
)
 Complainant,)
)
 v.) PCB 93-171
) (Enforcement)
)
 MIDSTATE KART CLUB,)
)
 Respondent.)

ORDER OF THE BOARD (by M. Nardulli):

This matter is before the Board on a September 9, 1993, complaint filed by Leo G. Fore alleging that Midstate Kart Club emits noise in violation of Sections 23 and 24 of the Environmental Protection Act (Act) (415 ILCS 5/23, 24 (1992)). In its order of October 7, 1993, the Board directed the parties' attention to Section 25 of the Act, which exempts certain activities from the Board's noise regulations. The Board quoted the pertinent language as follows:

No Board standards for monitoring noise or regulations prescribing limitations on noise emissions shall apply to any organized amateur or professional sporting activity except as otherwise provided for in this Section.

415 ILCS 5/25 (1992).

The Board then directed the parties to file written documents with the Board addressing whether the complained of activity is an "organized amateur or professional sporting activity" and whether the claim alleges violations of the Act which fall within the Board's purview.¹ The statutory definition of an "organized amateur or professional sporting activity" is contained in Section 3.25 of the Act:

"ORGANIZED AMATEUR OR PROFESSIONAL SPORTING ACTIVITY" means an activity or event carried out at a facility by persons who engaged in that activity as a business or for education, charity or entertainment for the general

¹ On November 18, 1993, the Board gave the parties leave file affidavits in support documents filed in response to the Board's October 7, 1993, order. Midstate Kart Club filed a supporting affidavit on November 29, 1993. Mr. Fore filed a supporting affidavit on December 2, 1993.

public, including all necessary actions and activities associated with such an activity. This definition includes, but is not limited to, skeet, trap or shooting sports clubs in existence prior to January 1, 1975, organized motor sports, and sporting events organized or controlled by school districts, units of local government, state agencies, colleges, universities or professional sports clubs offering exhibitions to the public.

415 ILCS 5/3.25 (1992).

On October 12, 1993, Midstate Kart Club filed a motion to dismiss the complaint, alleging that Midstate Kart Club is an "organized amateur or professional sporting activity" within the meaning of the statute and is therefore exempt from the Board's noise regulations. In support of its motion to dismiss, Midstate Kart Club asserts that it is:

a non-profit organization, formed to further and perpetuate karting, not only as a competitive endeavor, but as a family sport as well. To promote safety within the sport, and to help establish uniform and practical policies to propagate kart racing (sic). To establish effective public relations, and to keep kart racing on the favorable plane it has occupied since it's inception (sic).

Use of Mid-state Kart Club's facilities can take place only after a fee is paid to the Club to provide insurance coverage and to cover use of the Club's facilities. Use of Mid-State Kart club's facilities is limited to our established schedule. Anyone using the Club's facilities are subject to our rules concerning safety and personal conduct. Anyone in violation of these rules or procedures are subject to discipline by the Club officers and Competition Board. As such, all activities should be considered as organized activities associated with the established rule.

Thus, Midstate Kart Club presented evidence that it is a motor sport facility organized for business or educational, charity or entertainment purposes.

In response, Mr. Fore states:

We acknowledge that the Midstate Kart Club is an organized activity... . However, the law clearly state (sic) '...including all necessary actions and activities associated with such an activity.' It is our contention that the activities on all other days other than when races occur are not necessary. These are individuals practicing or testing their karts (sic). (emphasis in original)

Mr. Fore also asserts that the leasing of the track to an out-of-state kart club is not a necessary activity.

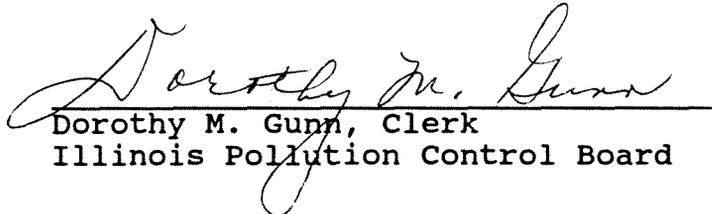
Mr. Fore asks the Board to construe "organized amateur or professional sporting activities" as only those activities which are necessary. However, Section 3.25 of the Act defines "organized amateur or professional sporting activities", in pertinent part, as "an activity or event carried out at a facility ... including all necessary actions and activities associated with such an activity." (emphasis added) Therefore, the definition of "organized amateur or professional sporting activities" is not limited to necessary activities but rather includes necessary activities.

The evidence before us indicates that Midstate Kart Club is a motor sport facility, which conducts organized activities for business or educational, charity or entertainment purposes. The Board concludes that Midstate Kart Club is a "organized amateur or professional sporting activity" as defined by Section 3.25 of the Act and is therefore exempt from Board noise regulations under Section 25 of the Act. The Board accordingly grants Midstate Kart Club's motion to dismiss.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act, 415 ILCS 5/41 (1992), provides for appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 16th day of December, 1993 by a vote of 7-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board