

ILLINOIS POLLUTION CONTROL BOARD
February 19, 1981

COUNTY OF PEORIA,)
A Body Politic And Corporate,)
)
Complainant,)
)
v.) PCB 80-38
)
BACON'S FARM, LTD.,)
Joell Allen, Manager, Second Chance;)
and Steve Corich, Manager, Second)
Chance, d/b/a Second Chance,)
)
Respondent.)

MR. CHRIS FREDRICKSEN AND MR. PETER WAYNE, ASSISTANT STATE'S
ATTORNEYS APPEARED ON BEHALF OF THE COMPLAINANT;
MR. THOMAS E. LEITER APPEARED ON BEHALF OF THE RESPONDENT.

INTERIM OPINION AND ORDER OF THE BOARD (by J.D. Dumelle):

The County of Peoria filed a complaint on February 21, 1980,
and a supplemental complaint on August 1, 1980, alleging
violations of various Board Regulations of Chapter 8: Noise
Pollution, as well as Section 24 of the Illinois Environmental
Protection Act (Act). Hearings were held on June 12 and
December 17, 1980. A Stipulation of Facts and Agreed Settlement
was filed on January 9, 1981.

The following factual background and discussion have been
stipulated to.

Second Chance owns and operates a lounge at 3300 W. Willow
Knolls Road in Peoria County, Illinois. Said lounge is a
property-line noise source located on Class B land within
the meaning of Rule 201(b) of Chapter 8.

Second Chance is bounded on the north by Willow Knolls
Road, on the west by a vacant field, on the east by an apartment
complex located approximately 600' from the Second Chance
building and on the south by single-family dwellings.

These single-family dwellings are located approximately
100-300 yards from the Second Chance building and face West
Chadwick Lane. The land which they occupy is classified as
Class A land within the meaning of Rule 201(A) of Chapter 8.

On March 2, 1978, the Environmental Protection Agency (Agency) was notified by the Peoria County State's Attorney's Office that it had received complaints from residents on West Chadwick Lane concerning amplified music being emitted from the Second Chance building.

In May of 1978, a representative of the Agency contacted Mr. Bruce Simpson, who resides at 3213 West Chadwick Lane. The back of his residence faces the Second Chance building. Mr. Simpson complained that the amplified music affected his sleep, his watching of television, his conversations with others and the enjoyment of his backyard. He complained further that the noise was most intolerable between 9:00 p.m. and 2:00 a.m.

Below are listed measurements taken by the Agency on the dates specified for nighttime Class B land to Class A land:

Octave Band Center Frequency	Rule 202 Octave Band Sound Pressure Level Limits	5/16/78 (db)	5/21/79 (db)		6/22/79 (db)	6/6/80 (db)	
			Site 1	Site 2		Site 1	Site 2
31.5	63	52	50	50	53	55	53
63	61	58	50	48	64	56	64
125	55	55	48	48	56	56	62
250	47	47	47	45	49	54	52
500	40	43	47	44	50	51	51
1000	35	38	41	39	40	46	48
2000	30	23	30	28	38	39	39
4000	25	*	23	23	34	45	44
8000	25	*	21	21	27	34	34

The County alleged in its Complaint that on May 16, 1978; May 21, 1979; June 22, 1979; and June 6, 1980; the noise emitted from Second Chance exceeded the levels as stated in Chapter 8.

There are at least six residents of single-family dwellings located on West Chadwick Lane located to the south of the Second Chance building who are ready and willing to testify that they are bothered by the noise to such a point that it interferes with the enjoyment of their life and the use of their property. The citizen complainants are ready and willing to testify that the noise affects their rest and relaxation, interrupts their sleep, makes them irritable, affects their normal conversation and listening to television.

Respondents stipulate that on the dates alleged, the Agency conducted various noise tests, results of which indicate that the Respondents were in violation of Rules 102, 203 and 207 of Chapter 8 and Section 24 of the Act.

Based upon the stipulated facts and the lack of objections from any members of the affected public, the Board finds that the agreed interim settlement is appropriate and comports with Procedural Rule 331 and Section 33(c) of the Act. The Board, therefore, accepts the Stipulation of Facts and Agreed Settlement and will order such acts as agreed to in the interim settlement.

ORDER

It is the Order of the Board that:

1. Respondents shall not remove or change any of the noise reducing steps they have taken as of the date of this Order except such changes deemed necessary to further reduce noise;
2. Respondents shall hire and retain a noise consultant to conduct research, part of which will include noise tests, who will make recommendations to Second Chance as to noise emissions so as to comply with Chapter 8 of the Pollution Control Board Rules and Regulations;
3. Respondents' consultant shall communicate his research and recommendations he or other consultants have completed for Second Chance to the Illinois Environmental Protection Agency.
4. Respondents' consultant shall also prepare a detailed abatement plan for the reduction of noise emissions from Second Chance. This plan shall contain a specific timetable for when the abatement work will commence and terminate. This plan shall also contain a detailed report of all abatement work performed by Second Chance prior to the date of this Order.
5. Respondents' consultant shall present all of his research, recommendations and the abatement plan to the Agency within thirty (30) days of the date of this Order.
6. The Agency shall review said research, recommendations and abatement plan within twenty (20) days after receipt of the consultant's work, and shall then communicate its recommendations for abatement to the consultant and to Second Chance.
7. Second Chance agrees to act in good faith and follow the recommendations for abatement as proposed by the Agency.
8. Second Chance shall permit access to its building and to the grounds surrounding the Second Chance building to representatives of the Agency for the purpose of conducting its own research as to noise emissions.
9. The parties shall jointly report to the Board when all the time periods and actions ordered have elapsed or been done.

10. The Board retains jurisdiction in this case and will take further appropriate action at a later date including a decision as to penalty.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 19th day of February, 1981 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board