

ILLINOIS POLLUTION CONTROL BOARD
April 12 , 1979

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 77-190
)
 LARRY KLAIRMONT,)
)
 Respondent.)

MR. DEAN HANSELL, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. MICHAEL J. KRALOVEC, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon an amended complaint filed on September 20, 1977 by the Environmental Protection Agency (Agency). The complaint was amended to name Larry Klairmont Respondent after discovery indicated that he was the beneficial owner of the building in question which was held by the original Respondent, First National Bank of Highland Park, under a land trust. The complaint alleges the Respondent caused or allowed violations of Section 24 of the Environmental Protection Act (Act) and Rule 102 of of the Chapter 8: Noise Regulations since June 3, 1976. A hearing was held on February 28, 1979 at which time a stipulated agreement was presented for Board approval.

The agreement provides that Larry Klairmont is the beneficial owner of the Edens View Office Building in Chicago, behind which are located six ground mounted air conditioning units approximately seventy-five feet from the nearest residential building. The units are partially enclosed by a rough cedar wood fence.

Technical personnel from the Agency took sound measurements on four dates during the summers of 1976, 1977 and 1978. Agency readings indicated violations of Rule 102 of the Noise Regulations on all dates. A citizen witness offered to testify for the Agency that the noise disrupted her life at home, outdoor activities, conversations and sleep. Respondent hired experts and asserted that there are other contributing noise factors in the general vicinity, including traffic noise.

In the stipulated agreement, the Respondent does not admit to violations of the Act and Rule 102. However, he agrees to cease and desist from any violations and to a civil penalty of \$400. The agreement provides a detailed plan to prevent further noise pollution. Respondent is to install an automatic timer limiting operation to 7:00 a.m. to 7:00 p.m. The existing wooden fence is to be extended to a height of ten feet and the bottom opening and a vertical opening on the east wall enclosed. The wall of the building behind the air conditioner is to be covered with weather resistant acoustic material. The Agency is to take sound measurements at least twenty-five feet from the property line. If the readings indicate violation of Rule 202, Respondent is to install weather resistant acoustic material consisting of a lead vinyl substance on the inside of the wooden structure covering the entire southern and eastern wall.

The Board finds the stipulated agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds Respondent in violation of Section 24 of the Act and Rule 102 of the Chapter 8: Noise Regulations. A civil penalty of \$400 will be assessed.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

It is the Order of the Pollution Control Board that:


1. Respondent is found to be in violation of Section 24 of the Environmental Protection Act and Rule 102 of the Chapter 8: Noise Regulations.
2. Respondent shall pay within thirty days of the date of this Order a civil penalty of \$400, payable by certified check or money order to:

State of Illinois
Fiscal Services Division
Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

3. Respondent shall cease and desist from any violations of the Chapter 8: Noise Regulations.
4. Respondent shall comply with all terms of the stipulated agreement incorporated by reference as if completely set forth herein.

5. Within thirty days from the date of this Order, Respondent shall complete his obligations under Sections 2, 3 and 5 of the stipulated agreement and shall notify the Board whether such steps have been completed or not.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 12th day of April, 1979 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board