

ILLINOIS POLLUTION CONTROL BOARD
August 3, 1978

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
)
 v.) PCB 77-331
)
)
 THE BOARD OF LIBRARY DIRECTORS)
 OF THE VILLAGE OF HILLSIDE,)
)
 Respondent.)

DEAN HANSELL, ASSISTANT ATTORNEY GENERAL, APPEARED FOR THE
COMPLAINANT;
GORDON LEVINE OF ANSEL, GLINK, DIAMOND & MURPHY, APPEARED
FOR THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by Mr. Goodman):

The Environmental Protection Agency (Agency) filed this Complaint on December 13, 1977 alleging violations of Rules 102, 202 and 203 of Chapter 8: Noise Regulations. A hearing was held in Chicago on April 11, 1978 at which no members of the public attended. By the hearing date, the parties had reached a tentative accord, and their Proposed Stipulation of Facts and Settlement was filed with the Board on May 26, 1978.

Respondent, the Board of Library Directors of the Village of Hillside (Library) is a public library established by Article 2 of the Illinois Local Library Act, Ill.Rev.Stat.1975, Ch. 81. The Library is located in the vicinity of the intersection of the Eisenhower and Tri-State Expressways. This is a residential neighborhood of single family dwellings, apartment buildings and a seminary. The Library and surrounding area are Class A properties within the meaning of Rule 201 of the Board's Noise Regulations.

The Complaint was filed as a result of the Agency's investigation during the summer 1976 of several nearby residents' complaints regarding noise from the Library's air conditioning unit. The Library runs its air conditioning unit day and night during the hot weather in order to protect books and other library materials from damage from the temperature and humidity.

A compliance conference was held on September 1, 1976, and the Library entered into a compliance agreement on March 7, 1977. By late spring, 1977, the Library had installed barriers and acoustic steel walls filled with sound absorptive foam. A set of sound measurements taken by the Agency in June, 1977 still showed violations of Rules 102, 202 and 203. The Library was notified of these violations on June 15, 1977, and responded to the notice by letter indicating that further action would be taken, but not indicating what that action would be. However, on January 6, 1978, the Library installed nine additional acoustic wall panels.

The Stipulation indicates that the steps taken by the Library to date have reduced noise emissions, but subsequent sound surveys indicate that the Library is still not in compliance with the nighttime standards of Rule 203. These same sound surveys indicate that the ambient noise level in the area is high, even at night, due to the proximity of the two expressways. The Library agreed to rewire its air conditioning unit so that only the main compressor will operate during the hours of 10:00 p.m. to 7:00 a.m. This should reduce the hydraulic pressure in the system and eliminate excessive noise. This work was to have been completed by June 15, 1978.

The Settlement makes no mention of a stipulated penalty. The Board finds that the purposes of the Act would not be served by imposing a penalty in this case. There is nothing in the record to indicate that the Library did not in good faith try to comply with the Board's regulations. Furthermore, the Library has already made expenditures to bring it into compliance with the rules. Since the Library is funded through taxes, we feel it would be unfair to further tax the public by assessing a penalty, when this settlement will result in the abatement of future noise violations. See, EPA v. City of Mt. Carmel, #73-246, 10 PCB 153, 154 (1973).

ORDER

It is the Order of the Pollution Control Board that:

- 1) The Board of Library Directors of the Village

of Hillside has violated Rules 102, 202 and 203 of Chapter 8: Noise Regulations.

- 2) The Library shall cease and desist all future violations.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 3rd day of August, 1978 by a vote of 5-0.

Christan L. Moffett /KD
Christan L. Moffett, Clerk
Illinois Pollution Control Board