

ILLINOIS POLLUTION CONTROL BOARD  
April 27, 1978

CENTER COURT GARDENS LIMITED )  
PARTNERSHIP, )  
 )  
Petitioner, )  
 )  
v. ) PCB 78-47  
 )  
ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
 )  
Respondent. )

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

This matter comes before the Board on a Variance Petition filed on February 16, 1978 by the Center Court Gardens Limited Partnership requesting relief from Rule 602(a) of the Board's Water Pollution Regulations which prohibits the installation of new combined sewers. The Petitioner waived hearing on February 16, 1978. On March 16, 1978, the Agency filed a Recommendation in favor of granting the requested variance.

The Petitioner is seeking the variance in order to construct and operate a combined sewer system which would serve a proposed residential apartment complex of 293 units in 14 buildings located on an 8-acre tract bounded by Ashland Boulevard, Congress Parkway, Loomis Street, and Harrison Street in Chicago. The area surrounding the site is an existing inner-city residential neighborhood of apartment buildings and townhouses. When fully occupied, the 293 units will provide housing for about 450 people.

This area is currently served by a system of combined sewers which are tributary to the West-Southwest Sewage Treatment Plant of the Metropolitan Sanitary District of Greater Chicago. This sewer system has adequate capacity to serve the apartment project and there are no unusual flooding or basement backup problems in the area. (Rec., p.2).

On December 15, 1977, the Agency issued a Water Pollution Control Permit for the project which contained "Special Condition 2" requiring that "storm water and sanitary sewage shall be discharged separately into the existing combined sewer."

Compliance with this requirement for separate storm and sanitary sewers would necessitate the addition of 4 extra storm sewers (having a total length of approximately 1,750 linear feet) at an estimated cost of \$25,000.00. The expense of constructing a separate sewer system for the apartment complex would serve no useful purpose, since the flows would eventually discharge into the combined system which flows into the West-Southwest Sewage Treatment Plant.

Moreover, the City of Chicago has no existing separate storm and sanitary sewers in this area, nor are there any separate sewers planned for the future. Ultimate compliance with Rule 602(a) will be achieved by the construction of the Metropolitan Sanitary District of Greater Chicago Tunnel and Reservoir Project. In fact, in regulatory proposal R77-12, the Agency has suggested an amendment to Rule 602(a) which, if adopted, will obviate the need for a variance for projects such as the one proposed by the Center Court Gardens Limited Partnership.

In similar cases, the Board has recognized that denial of the requested relief would impose an arbitrary and unreasonable hardship in light of the minimal environmental impact and countervailing costs of compliance. Mary Ann Nowak v. EPA, PCB 76-193 (November 10, 1976); City of Calumet v. EPA, PCB 76-318 (February 3, 1977); Near North Development Corporation v. EPA, PCB 77-78 (May 26, 1977); Harry Weese and Associates v. EPA, PCB 77-140 (August 4, 1977); Orchard and Vine Corporation v. EPA, PCB 77-65 (May 26, 1977); and Crane Construction Company v. EPA, PCB 77-265 (November 19, 1977).


According, the Board finds that the Petitioner would suffer an arbitrary and unreasonable hardship if required to meet the requirements of Rule 602(a), and we shall therefore grant the requested variance.

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

ORDER

It is the Order of the Pollution Control Board that the Center Court Gardens Limited Partnership be granted a variance from the requirements of Rule 602(a) of Chapter 3: Water Pollution Rules and Regulations.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 27<sup>th</sup> day of April, 1978 by a vote of 5-0.

  
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Christan L. Moffett Clerk  
Illinois Pollution Control Board