

ILLINOIS POLLUTION CONTROL BOARD
June 13, 1974

MR. AND MRS. RAY MARRE,)
)
 Petitioner,)
)
 vs.)
) PCB 74-96
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

On March 18, 1974, Mr. and Mrs. Ray Marre filed a petition for variance, seeking therein relief from Order #7 of League of Women Voters v. North Shore Sanitary District, PCB 70-7, 11, 12, 13 and 14 in order to allow a sewer connection for a newly constructed building designed to house a combination used car lot and automobile repair shop located at Green Bay and Central Roads in Waukegan, Illinois. The subject building allegedly cost \$50,000.00

The proposed connection sought by Petitioners would be tributary to the Clavey Road sewage treatment plant. The Pollution Control Board entered an Order in North Shore Sanitary District v. Environmental Protection Agency, PCB 73-134, January 31, 1974, allowing additional connections to the improved Clavey Road plant upon the condition that no connection should be allowed before July 1, 1974.

Petitioners allege that an assurance from an unnamed party led them to believe in July of 1973 that sewer permits would be available in two weeks. Upon this assurance, Petitioners obtained financing and constructed the building for which this variance is sought.

Petitioners allege that the building has now been completed and that their failure to acquire a sewer connection permit imposes an arbitrary and unreasonable hardship upon them. Petitioners state that relief is necessary or they may lose their sizable investment.

While we cannot condone Petitioner's decision to build in the face of the ban, and find that Petitioner's hardship is to some extent self-imposed, we are satisfied from the circumstances that Petitioners erroneously, but without bad faith, acted in reliance upon assurances which proved incorrect. Since the building is completed and only one washroom is involved, we are disposed to grant this variance.

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

IT IS THE ORDER of the Pollution Control Board that Petitioners, Mr. and Mrs. Ray Marre, be granted a variance from Order #7 of League of Women Voters v. North Shore Sanitary District, PCB 70-7, 11, 12, 13 and 14 to allow a sewer connection for the subject property.

The Board further orders that the North Shore Sanitary District subtract Petitioners' population equivalent from the total population equivalent granted to the District in North Shore Sanitary District v. EPA, PCB 73-134.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on this 13th day of June, 1974 by a vote of 4-0.

Christan L. Moffett