

ILLINOIS POLLUTION CONTROL BOARD
January 24, 1974

Mrs. Maurice McClure and)
Mrs. Joseph A. Ringbauer,) PCB 73-357
) PCB 73-358
 Complainants,)
)
 vs.)
)
Foremost Liquors,)
)
 Respondent.)

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

This is a formal complaint brought by citizens pursuant to Section 31 of the Environmental Protection Act. The Respondent is charged with Title V - Land Pollution and Refuse Disposal, Section 20 of the Environmental Protection Act and also Title II Section 8 - Air Pollution.

The Respondent, the Foremost Liquors, is located in the County of Cook, Oak Lawn, Illinois. After the formal complaints were filed on August 22, 1973 by Mrs. Joseph A. Ringhauer and Mrs. Maurice McClure, both of Oak Lawn, the Board ordered that a hearing be held. The hearing was held on October 8, 1973. The Complainants testified that the Respondent had burned in his incinerator several times a week, causing smoke in the area which at times was very black and heavy. Seven citizen witnesses testified to the violations. The Complainants introduced eight Exhibits; Exhibit A, indicating numerous dates when the incinerator was emitting smoke; Exhibit B, indicating samples of the particulate matter discharged from the Respondent's incinerator onto their property; Exhibit C, a letter from one of the Complainant's doctors indicating the allergic condition of her daughter; Exhibit D, a letter from the Oak Lawn Fire Department to the Complainant indicating the Respondent had been notified of the prevailing condition; and Exhibit E, a letter from another citizen complaining of the smoke and fly ash and Exhibit F, more samples of the particulatedischarge by the Respondent's incinerator and Exhibit G, a photograph of the Respondent's incinerator showing a discharge of heavy black smoke and finally, Exhibit H, a photograph taken at a later date indicating a discharge of heavy smoke of Respondent's incinerator.

The Respondent did not appear at the hearing, although he was personally notified by the hearing officer (p.23).

The complaint of Mrs. Maurice McClure (PCB 73-358) however did not charge the Respondent with any violation since the sections alleged are only Preamble in nature and do not charge a violation, therefore, this complaint will be and is hereby dismissed.

The complaint of Mrs. Joseph A. Ringbauer (PCB 73-357) does charge the Respondent with the "use of incinerator several times a week causing smoke in area, which is at times very black and heavy." This is clearly a charge of the violation of Section 9(a). The evidence is clear that the Respondent is in violation of said section.

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

ORDER

IT IS THE ORDER of the Pollution Control Board that:

1. Respondent shall cease and desist from using his incinerator in violation of the Environmental Protection Act.
2. That the Respondent is guilty of a violation of Title II, Section 9(a) of the Environmental Protection Act and is penalized in the amount of \$500.00.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on this 24th day of January, 1974 by a vote of 5-0.

Christan L. Moffett