

ILLINOIS POLLUTION CONTROL BOARD
November 8, 1973

RICK AND LYNDA STRUSINER)
PETITIONERS)
)
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 v.) PCB 73-352
)
)
 ENVIRONMENTAL PROTECTION AGENCY)
 RESPONDENT)
)
)

MARVIN A. MARDER, ATTORNEY, in behalf of RICK AND LYNDA STRUSINER
LEE A. CAMPBELL, ASSISTANT ATTORNEY GENERAL, in behalf of the ENVIRONMENTAL PROTECTION AGENCY

OPINION AND ORDER OF THE BOARD (by Mr. Marder)

This action involves a variance request. Relief is sought from Order #7 of League of Women Voters v. North Shore Sanitary District, PCB 70-7, 12, 13, 14, to obtain a connection for a proposed single-family dwelling to be built in Highland Park, Illinois.

The Agency has recommended a denial based on the present situation at the Clavey Road plant. New information has been received by the Board from the Agency. This information will be detailed later in this opinion.

Mr. and Mrs. Strusiner purchased a vacant lot for construction of a single-family residence for personal use on January 31, 1972. Construction of said residence was to commence during October 1973, with an anticipated completion date of June 1974. The Strusiners were informed on January 4, 1973, that no permits were available for sewer hookups and that they had been assigned on a waiting list, File No. 1204. Petitioners allege that they were informed that during the late spring and early summer 2500 additional sewer permits would be issued, due to the progress anticipated at the Clavey Road plant.

Petitioners further state that on the basis of this information, they proceeded with their plans, which included moving from their home and taking an apartment with a one-year lease.

Petitioners claim an unreasonable hardship would be imposed

upon them if the variance were denied. The following points are raised to substantiate this.

1. Petitioner would suffer a tax loss if not allowed to complete construction of a new residence during the one-year period following the sale of their previously-owned residence.
2. Petitioners' existing apartment has a one-year lease. Petitioners have been informed that said lease will not be extended. This would require Petitioners to relocate at considerable expense.
3. Petitioners allege the above two points plus taxes and improvement charges incurred on their ownership of an unimproved lot would result in costs in excess of \$10,000.

The above hardships must be weighed against the potential harm to the environment caused by the issuance of a variance. As mentioned above, new information has recently come to the Board's attention regarding the status of the Clavey Road plant. The Agency has reported the following:

"Clavey Road

Ten million gallons per day capacity is presently possible. Full secondary treatment (18 mgd) expected by March 1, 1974. Advanced treatment by September 1, 1975."

The following data is available regarding the operation of the Clavey Road plant for the past six months:

	<u>FLOW</u>	<u>BOD (mg/l)</u>	<u>T.S.S. (mg/l)</u>
March 1973	9.21	35	21
April 1973	10.31	28	22
May 1973	8.19	30	31
June 1973	7.64	23	20
July 1973	6.34	19	23
August 1973	6.33	11	13
September 1973	<u>6.72</u>	<u>7</u>	<u>18</u>
Average	7.82	22	21

By February 1, 1974, an additional (approximately) 2.5 mgd of flow will be diverted to the Clavey Road treatment plant. The standards now in effect for the plant are BOD - 20 mg/l, T.S.S. 25 mg/l. It is clear that with the additional treatment capacity due on stream by March 1, 1974, the Clavey Road treatment plant will have

an excellent chance of meeting applicable rules and regulations.

Petitioners' proposed residence will not be ready for use before March 1, 1974, and therefore should have no effect on the present situation.

At this point the sewer ban is still in effect and will continue to be until the Clavey Road plant has been proven to be running in accordance with applicable rules and regulations. The Board will, however, keep the above facts in mind when deciding variance petitions. The definition of hardship can now be relaxed to cause a minimal harm to petitioners. The Board wishes to make it very clear that the new information does not constitute an automatic variance, and each petition will be considered on its individual merits.

In the instant case the Board feels that sufficient hardship has been presented to warrant a grant.

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 Petitioners, Rick and Lynda Strusiner, be granted a variance from Order #7, League of Women Voters v. North Shore Sanitary District, PCB 70-7, 12, 13, and 14, to connect a single-family residence to the sewer system of the Clavey Road plant.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Pollution Control Board, certify that the above opinion and order was adopted by the Board on the 8th day of November, 1973, by a vote of 5 to 0.

Christan L. Moffett