

ILLINOIS POLLUTION CONTROL BOARD
December 20, 1973

K. B. NAUMANN,)	
)	
Petitioner,)	
)	
v.)	PCB 73-353
)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	

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

On August 21, 1973, Petitioner, K. B. Naumann, a resident of Gurnee, County of Lake, Illinois, filed his request for variance. Petitioner seeks relief from Order #7 of League of Women Voters v. North Shore Sanitary District, (PCB 70-7, 12, 13 and 14) in order to obtain a sewer connection permit for a single-family residence presently in the final stages of construction at 421 Hawthorne Street, in Gurnee, Illinois. No hearing was held in this matter.

The proposed sewer connection would be tributary to the Clavey Road sewage treatment plant of the North Shore Sanitary District. Data extracted from the District's Monthly Operation Reports to the Agency discloses the following with respect to the effluent qualities produced and the average flows treated at the Clavey Road sewage treatment plant:

CLAVEY ROAD SEWAGE TREATMENT PLANT
MONTHLY OPERATION REPORTS

<u>Month</u>	<u>Ave. Flow (MGD)</u>	<u>BOD (mg/l)</u>	<u>Suspended Solids (mg/l)</u>
Jan/73	7.56	18	17
Feb/73	6.87	33	20
Mar/73	9.21	35	21
Apr/73	10.31	28	22
May/73	8.19	30	31
Jun/73	7.64	23	20
Jul/73	6.34	19	23
Aug/73	6.33	11	13
Sep/73	6.72	7	18

Although the Clavey Road plant is being upgraded to 10 MGD, a diversion program currently underway will add 3.0 MGD to this plant. A further expansion to 18 MGD is expected to be completed in March of 1974. The standards of effluent quality set in North Shore Sanitary v. Environmental Protection Agency (PCB 71-343) are 20 mg/l BOD and 25 mg/l of suspended solids.

Petitioner's business is the construction of homes. Petitioner states that he builds, on the average, one home per year. The building permit for the subject residence was issued March 24, 1973, allegedly in anticipation that sewer permits would soon be released.

Petitioner states that without a sewer connection permit he will not only be unable to market his product, but will also lose considerable interest on a heavy investment. Petitioner submits the following information as regards the amount invested:

\$ 6,750 - for the land
3,656 - for water main extension
20,000 - for material and labor to date
(approx)

Petitioner argues that "under normal circumstances" a contract sale would have been possible, and a \$16,000 payment at this point would have been realized. Instead, he is incurring an 8% interest loss.

Only the Pollution Control Board can make the decision as to when additional sewer connection permits will be released to the area in question. Predictions by either District or municipal officials as to when additional permits would be released by the Board cannot be relied on by builders, and it was an error in judgment for Petitioner to do so.

However, even though Petitioner's rather severe financial hardship is, to an extent, self-imposed, we are disposed to grant the variance requested. The situation at the Clavey Road plant shows definite improvement.

We have allowed a condominium developer to obtain sewer ban variances for the sale of developed condominium units (Exchange National Bank & Katz-Weiss Construction Corporation v. Environmental Protection Agency, (PCB 73-15)). We have also

allowed a developer to obtain sewer ban variances for resale of property that would add 910 population equivalent to the system (Mid-City Developers v. Environmental Protection Agency, PCB 72-274).

The Board finds that Petitioner is suffering an unreasonable hardship under Order #7 of the League of Women Voters v. North Shore Sanitary District.

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 Petitioner, K. B. Naumann, be granted variance for sanitary sewer connection for the single-family residence located at 421 Hawthorne Street, Gurnee, Illinois.

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 the 20th day of December, 1973 by a vote of 5 to 0.

Christan L. Moffett