

ILLINOIS POLLUTION CONTROL BOARD
August 22, 1972

ENVIRONMENTAL PROTECTION AGENCY)
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)
v.) #72-286
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)
CITY OF EVANSTON)

Opinion & Order of the Board on Motion for Stay (By Mr. Currie):

Brought before us on the Agency's complaint relating to alleged emissions from a municipal incinerator, Evanston has sought to appeal the hearing officer's order directing the City to respond to interrogatories and asks us to stay further proceedings pending resolution of its appeal. We deny the motion for stay.

To grant the relief requested would severely disrupt the administrative process and play havoc with the important policy against piecemeal appeals. Except in the most unusual circumstances controversies should be fully resolved through hearing and decision at the first level rather than interrupting proceedings whenever issue is taken with a procedural ruling. The proper avenue for the City, should it lose on the merits, is to seek judicial review of our final order. Interlocutory review is inimical to statutory policy not only because it interferes with and delays proceedings but because it imposes an unnecessary burden on the Appellate Court to pass upon issues that may be mooted by administrative action.

Thus we entertain serious doubts that a mere discovery order is appealable. Even if it is, we see no reason why our proceedings should be delayed, and alleged pollution permitted to continue, pending court resolution of the interlocutory order. And finally we see no shadow of merit in the argument put forth on review, namely, that Evanston is free to pollute at will because it is a home-rule unit. The statute is squarely to the contrary, and the constitutional home-rule provision merely authorizes cities to make laws, not to disobey them. EPA v. McHugh, Healy & Keeney Construction Co., #71-291 (May 17, 1972).

The motion for stay is denied.

I, Christian Moffett, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion & Order on Motion for Stay, this 22nd day of August, 1972, by a vote of 5 0.

