

ILLINOIS POLLUTION CONTROL BOARD
September 4, 1997

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 97-196
) (Enforcement - Water)
DI MUCCI DEVELOPMENT)
CORPORATION OF ROUND LAKE, INC.,)
an Illinois corporation,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

This matter comes before the Board upon a one-count complaint filed May 5, 1997, by the Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and the People of the State of Illinois, against Di Mucci Development Corporation of Round Lake, Inc. (Di Mucci), an Illinois corporation located at 100 West Dundee Road, Palatine, Lake County, Illinois. The complaint alleges that Di Mucci violated Section 12(b) of the Environmental Protection Act (Act) (415 ILCS 5/12(b) (1996)) and 35 Ill. Adm. Code 309.202(a) by constructing a sanitary sewer system without a construction permit.

On July 29, 1997, the parties filed a stipulation and settlement agreement, and a joint motion requesting relief from the requirement of Section 31(c)(2) that proposed stipulation and settlement agreements be presented at hearing. 415 ILCS 5/31(c)(2) (1996). The Board published a notice of the waiver of hearing on July 31, 1997. No objection to the granting of the waiver was received. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation and settlement agreement sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Di Mucci denies the alleged violations but agrees to pay a civil penalty of \$10,000.

The Board finds the stipulation and settlement agreement acceptable under 35 Ill. Adm. Code 103.180. This settlement agreement in no way affects Di Mucci's responsibility to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's regulations.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and Di Mucci Development Corporation of Round Lake, Inc. (Di Mucci), an Illinois corporation located at 100 West Dundee Road, Palatine, Lake County, Illinois. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Di Mucci shall pay the sum of \$10,000 within 30 days of the date of this order. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund and shall be sent by first class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 N. Grand Avenue East
Springfield, IL 62702

The certified check or money order shall clearly indicate on it Di Mucci's federal employer identification number 36-3850189 and that payment is directed to the Environmental Protection Trust Fund.

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in Section 1003(a) of the Illinois Income Tax Act, (35 ILCS 5/1003 (1996)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

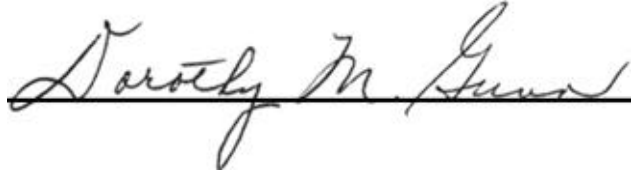
3. Di Mucci shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Board Member K.M. Hennessey obtained

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 145 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 4th day of September 1997, by a vote of 6-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board