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AUG 18 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

VILLAGE OF FRANKFORT)
)
 Petitioner)
)
 v.)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

No. PCB 05-20

PETITION TO REVIEW THE DENIAL OF PERMIT APPLICATION

Petitioner, the Village of Frankfort, by its attorneys, Mahoney, Silverman and Cross, Ltd., for its petition to review the denial of a permit application, states:

1. On June 16, 2004, the Village of Frankfort, together with Mallard Development Company, filed an application for a joint construction and operating permit for the extension of a sewer line which is tributary to Frankfort's waste water treatment facility to an area outside Frankfort's facility planning area (FPA). (A copy of the application is attached hereto as Exhibit A).
2. Both Frankfort's waste water treatment facility and the area into which the sewer was proposed to be extend are within the Hickory Creek Watershed.
3. On July 15, 2004, the Illinois Environmental Protection Agency (IEPA) denied the application for the joint construction and operating permit. The only basis that was given was that the area was not within Frankfort's FPA. (A copy of the denial is attached hereto as Exhibit B).
- Denial of the permit was not based upon sound environmental and/or engineering principals.
4. The IEPA is a statutorily created entity and thus has only those powers given to it by

legislative authority.

5. Nowhere within the Environmental Protection Act is the IEPA given authority to create FPAs that are based on political boundaries, as opposed to boundaries based on sound environmental and/or engineering principals. The IEPA does not have authority under the Act to deny permits based on a sewer line being extended beyond the boundary line of an FPA. Indeed, the Act does not give the IEPA the authority to create FPAs on any basis. Accordingly, the IEPA's denial of the permit should be reversed.

WHEREFORE, the Village of Frankfort requests the Pollution Control Board to review and reverse the denial of the permit application.

VILLAGE OF FRANKFORT,

By: 
One of Its Attorneys

James A. Murphy - Atty. No. 06195324
MAHONEY, SILVERMAN & CROSS, LTD.
822 Infantry Drive, Suite 100
Joliet, Illinois 60435
(815) 730-9500

This Agency is authorized to require this information under Illinois Revised Statutes, 1970, Chapter 111 1/2, Section 1039. Disclosure of this information is required under that Section. Failure to do so may prevent this form from being processed and could result in your application being denied. This form has been approved by the Forms Management Center.

Log # _____

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
DIVISION OF WATER POLLUTION CONTROL
PERMIT SECTION
Springfield, Illinois 62794-9276

SCHEDULE A PRIVATE SEWER CONNECTION(S) OR SCHEDULE B SEWER EXTENSION(S)
(Please Circle One or Both)

- 1. NAME OF PROJECT: Highwick of Frankfort
2. TYPE OF SERVICE(S): Residential X; Commercial; Light Industrial (Domestic Waste Only); Manufacturing; Recreational; Other
3. NATURE OF PROJECT: Project consists of: a sewer extension X; a sewer connection; a trunk sewer; a replacement sewer; a relief sewer; an interceptor sewer; a new sanitary sewer
4. PROJECT LOCATION, SERVICE AREA AND POPULATION: Submit map(s) of the service area that includes the following:
4.1 An 8 1/2 X 11 inch detailed project location map or USGS map showing the project with respect to major roadways. In lieu of this map, a letter from the Illinois Historic Preservation Agency indicating compliance with the Illinois Historic Preservation Act for this project may be submitted.
4.2 The proposed sewer layout and project location.
Township 35 Section 31 Range 13
4.3 Residential and/or non-residential areas and their associated waste loads to be immediately served by the sewers of this project.
4.4 Potential residential and/or non-residential areas and their associated loads must be included in the overall design of the sewers of this project.
5. FACILITIES PLANNING AREA: This project is is not X being constructed entirely within the Facilities Planning Area (FPA) boundaries. Name of FPA: N/A
6. TYPE OF DEVELOPMENT: The following design criteria should be used in estimating the population equivalent (P.E.) of a residential building:

Table with 2 columns: Building Type and P.E. values. Rows include Efficiency or Studio Apartment, 1 Bedroom Apartment, 2 Bedroom Apartment, 3 Bedroom Apartment, Single Family Home, and Mobile Home.

Commonly used quantities of sewage flows from miscellaneous type facilities are listed in Appendix B, Table No. 2 of the Illinois Recommended Standards for Sewage Works.

- 6.1 RESIDENTIAL BUILDINGS: Number of building(s) 31; Number of single family dwelling building(s) 25; Number of multiple dwelling buildings* 6; Estimated total population 144 P.E.
* Please provide an itemized list for each multiple dwelling building including: Number of 1, 2 and 3 bedroom units; the total P.E. for the each building and the total P.E. for multiple family dwellings.

6.2 NON-RESIDENTIAL BUILDINGS: Describe use of building(s) N/A

Principal product(s) or activities

Number of non-residential building(s) to be served under this Permit _____

Estimated number of employees _____; Estimated number of occupants (transients) _____.

Estimated population equivalent (one population equivalent is 100 gallons of sewage per day, containing 0.17 pounds of BOD₅ and 0.20 pounds of suspended solids). Flow P.E. _____; BOD P.E. _____;

Suspended Solids P.E. _____.

6.3 Total loading for this project (Sum of 6.2 and 6.1) Design Average Flow 14,400 GPD; Design Max. Flow 57,600 GPD
P.E. 24.48 BOD; P.E. 28.8 Suspended Solids

6.4 Commencing July 1, 2003, Section 12.2 of the Environmental Protection Act (415 ILCS 5/12.2, as amended by P.A. 93-32) requires the Agency to collect a fee for certain applications for the installation of sanitary sewer connections and extension. Except for the conditions listed below, the following fee schedule shall apply:

Fee Dollars	Population Equivalents
100	1
400	2 - 20
800	21 - 100
1200	101 - 499
2400	500 or more

Please send the appropriate fee; certified or cashiers check made out to: "Treasurer, State of Illinois, Environmental Protection Permit and Inspection Fund" with the applicant's Federal Employee Identification Number (FEIN) appearing on the face of the check and submit along with this schedule. Any fee remitted to the Agency shall not be refunded at any time or for any reason, either in whole or in part.

The Sewer Permit fee does not apply to:

- a) Any Department, Agency or Unit of State Government
- b) Any unit of local government where all of the following conditions are met;
 - 1) The cost of the installation or extension is paid wholly from monies of the unit of local government, state grants or loans, federal grants or loads, or any combination thereof;
 - 2) The unit of local government is NOT given monies, reimbursed or paid, either in whole or in part, by another person (except for State grants or loans or federal grants or loans);
- c) 1) Include a certified copy of the budget item or the board or council minutes which authorize the construction of this project with only local funds; and
 - 2) I/we

(Signature for Unit of Government)

hereby certify that subsections (b)(1), (b)(2) and (c)(1) have been met.

- d) A sewer permit fee is not required for those sewer connections or sewer extension to serve only non-sewage waste. Should a portion of the waste flow be attributable to a sewage source(s), the fee shall be based on that portion. Sewage is defined as water-carried human and related wastes from any source. Schedule A/B only covers domestic wastewater sources. If a non-domestic wastewater source(s) is(are) part of this project, Schedules J and N are required, as appropriate, along with any additional applicable fee.

6.5 Non domestic liquid waste is _____ is not X produced inside the building(s). If liquid wastes other than domestic are produced, submit Schedule N.

7. DEVIATION FROM DESIGN CRITERIA: The design criteria for sewers are contained in the "Illinois Recommended Standards for Sewage Works", Current Edition. This submittal does _____ does not X include deviations from said criteria. **If deviations are included, justification for said deviations must be attached.**

7.1 Will "Standard Specifications for Water and Sewer Main Construction in Illinois", Current Edition, govern the construction of this system? YES X NO _____. If "NO" specifications must be furnished for the construction of the sewer.

MULTI-FAMILY TOWNHOMES (AGE RESTRICTED SENIOR) 2 BEDROOMS	=	2.25 PE
SINGLE FAMILY (AGE RESTRICTED SENIOR)	=	2.5 PE
6 TOWNHOME BUILDINGS 6 UNITS EACH (AGE RESTRICTED SENIOR)	=	81 PE
25 SINGLE FAMILY (AGE RESTRICTED SENIOR)	=	63 PE
TOTAL PE		144 PE

04044



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. Box 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-814-6026

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

217/782-0610

July 15, 2004

Mallard Development Company
Attn: Mike Harper
18212 Vermont Court
Orland Park, Illinois 60467

Re: Frankfort - Highwick of Frankfort, Log No. 1364-04

Dear Mr. Harper:

It has come to the Agency's attention following re-review of this project after the letter you received dated July 1, 2004, that the proposed project is not within the Facilities Planning Area (FPA) boundaries of the Village of Frankfort. A state construction permit cannot be issued for this project, until the current FPA boundaries are modified and approved.

Should you have any questions or comments regarding the above, please contact Melissa Parrott at the indicated telephone number and address.

Sincerely,

Alan Keller, P.E.
Manager, Permit Section
Division of Water Pollution Control

SAK:1364noi.map

cc: Tech 3 Consulting Group, Inc.
Village of Frankfort
RU
Binds
DWPC-Des Plaines

CERTIFICATE OF SERVICE

I, James A. Murphy, certify that a copy of the foregoing Petition to Review the Denial of Permit Application was served upon the following:

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O.Box 19276
Springfield, IL 62794-9276

by enclosing the same in an envelope for delivery via United States mail, addressed to the above, in a U.S. mailbox in Joliet, Illinois on the August 17, 2004.

MAHONEY, SILVERMAN & CROSS, LTD.

By: 

James A. Murphy

James A. Murphy
ARDC No.: 06195324
MAHONEY, SILVERMAN & CROSS, LTD.
822 Infantry Drive, Suite 100
Joliet, Illinois 60435
(815) 730-9500

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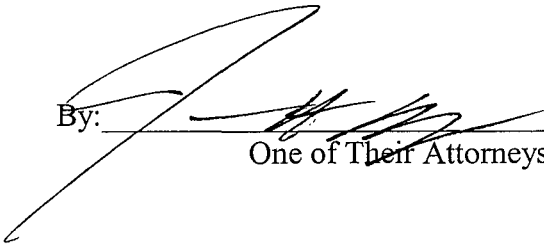
No. *PCB05-30*

APPEARANCE

I, James A. Murphy of Mahoney, Silverman & Cross, Ltd. hereby file my appearance in the above referenced proceeding, on behalf of the Village of Frankfort.

James A. Murphy
MAHONEY, SILVERMAN & CROSS, LTD.
822 Infantry Drive, Suite 100
Joliet, Illinois 60435
(815) 730-9500

MAHONEY, SILVERMAN & CROSS, LTD.

By:  _____
 One of Their Attorneys

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MAHONEY, SILVERMAN & CROSS, LTD.

By: _____

James A. Murphy

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