

ILLINOIS POLLUTION CONTROL BOARD

June 14, 1973

DAVID N. MARTIS

v.

ENVIRONMENTAL PROTECTION AGENCY

PCB 73-144

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

This is an appeal from an Agency denial of a sewer connection permit application. No hearing was held.

Petitioner is the owner of a newly constructed 8-unit apartment building in Lockport which is presently ready for occupancy. For some reason petitioner's contractor did not obtain an Agency permit during construction. After the building was almost entirely completed and the Agency learned that no permit had been applied for, the owner was contacted.

The problem here results from the fact that a main sewer line downstream from the new building has a crook in it which is inhibiting a proper flow. There is an existing 12-inch sewer line which is hydraulically overloaded as a result of present flows thru an existing 24-inch sewer immediately upstream from the 12-inch sewer. Flow tributary to the 24-inch sewer is given at 0.858 MGD while the rated capacity of the 12-inch sewer is given as only 0.40 MGD which is less than half the required capacity.

The City has informed the Agency that the 12-inch sewer is subject to bypassing raw sewage into Milne Creek, an intermittent stream tributary to the Illinois and Michigan Canal. The Agency believes that petitioner's connection to the sewer would add to the amount of raw sewage being bypassed to Milne Creek and could contribute to public health hazards and nuisances as a result of overflowing and sewer backups. This raw sewage overflow could contribute to the degradation of both Milne Creek and the Illinois and Michigan Canal.

In March, 1973 the City received an Agency permit for the replacement of the overloaded 12-inch sewer with a 24-inch segment. The project is scheduled for completion by August, 1973.

We must deny the variance in this case. This hardship is clearly self imposed. It was the petitioner's own contractor who failed to

get the Agency permit. If the Agency were contacted earlier, the petitioner would have learned of the unavailability of a permit before certain commitments were made and obligations undertaken. At this point we cannot grant the variance as a result of petitioner's own oversight. The sewer connection will have to wait until the City replaces the sewer. After the City sewer work is done, the permit should be available without a variance being necessary.

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

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 14th day of June, 1973 by a vote of 3-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board