

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
EDWARD PRUIM and ROBERT PRUIM,)
)
Respondents.)

PCB No. 04-207
(Enforcement – Land)

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
COMMUNITY LANDFILL COMPANY,)
INC.,)
Respondent.)

PCB No. 97-193
(Enforcement – Land)
(consolidated)

NOTICE OF FILING

TO: Christopher Grant
Environmental Bureau
Assistant Attorney General
188 West Randolph Street
20th Floor
Chicago, Illinois 60601

Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
100 West Randolph
Suite 11-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that on **SEPTEMBER 22, 2006**, the undersigned caused to be electronically filed with Ms. Dorothy Gunn, Clerk of the Illinois Pollution Control Board, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601, **RESPONDENT ROBERT PRUIM'S AND EDWARD PRUIM'S MOTION TO CANCEL HEARING**, a copy of which is attached and hereby served upon you.



One of the Attorneys for Respondents

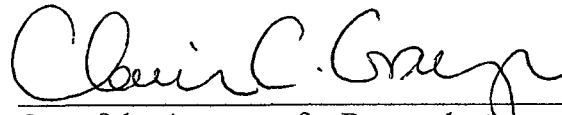
Mark A. LaRose
Clarissa C. Grayson
LAROSE & BOSCO, LTD.
Attorney No. 37346
200 North LaSalle Street, Suite 2810
Chicago, Illinois 60610
(312) 642-4414

CERTIFICATE OF SERVICE

I, Clarissa C. Grayson, an attorney hereby certify that I caused to be served a copy of the foregoing **RESPONDENT ROBERT PRUIM'S AND EDWARD PRUIM'S MOTION TO CANCEL HEARING** by placing same in first-class postage prepaid envelopes and depositing same in the U.S. Mail Box located at 200 North LaSalle Street, Chicago, Illinois, this **22nd** day of **September 2006**, addressed as follows:

Christopher Grant
Environmental Bureau
Assistant Attorney General
188 West Randolph Street
20th Floor
Chicago, Illinois 60601

Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
100 West Randolph
Suite 11-500
Chicago, Illinois 60601



One of the Attorneys for Respondents

Mark A. LaRose
Clarissa C. Grayson
LAROSE & BOSCO, LTD
Attorney No. 37346
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INC.,)	
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RESPONDENTS COMMUNITY LANDFILL COMPANY, INC., EDWARD PRUIM AND ROBERT PRUIM'S MOTION TO CANCEL HEARING

Respondents COMMUNITY LANDFILL COMPANY, INC., EDWARD PRUIM and ROBERT PRUIM, by and through their attorneys LaRose & Bosco, Ltd. and pursuant to 35 Ill. Adm. Code 101.510, hereby move the Illinois Pollution Control Board to cancel the hearing in this matter scheduled for December 11-15, 2006 and in support thereof, state as follows:

1. This matter is currently scheduled for hearing on December 11-15, 2006, although a Notice of Hearing has not yet been issued.
2. This motion is timely filed pursuant to 35 Ill. Adm. Code 101.510(a) which requires that this Motion to Cancel Hearing be filed no fewer than ten (10) days before the scheduled hearing date, or December 1, 2006.

3. The factual basis for the Motion to Cancel Hearing is set forth herein, in the Affidavit of Clarissa Cutler Grayson (attached as Exh. A and incorporated herein), and in the letters from Mr. Pruim's physicians, Dr. Daniel Rowan, his cardiologist (see Dr. Rowan letter dated September 21, 2006, attached to the Affidavit as Exh. 1) and Dr. Timothy Wollner, his family physician (see Dr. Wollner letter dated September 21, 2006, attached to the Affidavit as Exh. 2).

4. Edward Pruim, Secretary/Treasurer of CLC, recently underwent emergency quintuple bypass surgery which was complicated by the presence of an aortic aneurism. (See Exh. A, ¶ 3 and attached Exhs. 1 and 2). Mr. Pruim was hospitalized from August 26-September 9, 2006 at both Palos Community Hospital and Christ Hospital. (See Exh. A, ¶ 3 and attached Exhs. 1 and 2). Mr. Pruim was readmitted to Christ Hospital on September 11, 2006 with a blood clot on his lung, and after receiving treatment for this condition, he was released on September 17, 2006. (See Exh. A, ¶ 3 and attached Exhs. 1 and 2). He is currently recovering at his home and is receiving continued treatment for the blood clot and heart condition. (See Exh. A, ¶ 3 and attached Exhs. 1 and 2).

5. In the professional opinion of his physicians, Mr. Pruim is unable to undergo any stressful work-related activities for at least 5-6 months, including any participation by way of testimony or preparation in the legal proceedings now scheduled before the Illinois Pollution Control Board on December 11-15, 2006. (See Exh. A, ¶ 4 and attached Exhs. 1 and 2). The stress of having to prepare for and testify in this matter could seriously and adversely affect Mr. Pruim's recovery and health. (See Exh. A, ¶ 4 and attached Exhs. 1 and 2). He is physically unable to either prepare for or participate in the hearing scheduled for December 11-15, 2006. (See Exh. A, ¶ 4 and attached Exhs. 1 and 2).

6. In the opinion of Mr. Pruim's physicians, his physical condition should be reviewed in March, 2007 for his ability to participate in this proceeding. (See Exh. A, ¶ 5 and attached Exhs. 1 and 2).

7. The history of this matter's proceedings is set forth in the attached Affidavit of Clarissa Cutler Grayson. (See Exh. A, ¶ 6).

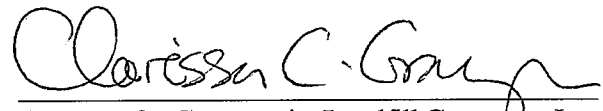
8. No previous cancellation requests have been made in this matter. (See Exh. A, ¶ 7). This is the first cancellation request that has been made. (See Exh. A, ¶ 7).

9. Edward Pruim's participation in preparation, attendance and testimony is necessary for the defense of this case.

10. This motion to cancel the hearing should be granted pursuant to 35 Ill. Adm. Code 101.510(b) as the attached affidavit and Exhibits 1 and 2 to the affidavit demonstrate that the request is not made as the result of the movant's lack of diligence. (See Exh. A and attached Exhibits 1 and 2).

WHEREFORE, Respondents Community Landfill Company, Inc., Edward Pruim and Robert Pruim respectfully requests that Hearing Officer Bradley Halloran grant their Motion to Cancel Hearing pursuant to 35 Ill. Adm. Code 101.510, and set the matter for status in March, 2007.

Respectfully submitted,

A handwritten signature in black ink that reads "Clarissa C. Grayson". The signature is written in a cursive style with a horizontal line underneath the name.

Attorney for Community Landfill Company, Inc.
Edward Prum and Robert Prum

Mark A. LaRose
Clarissa C. Grayson
LAROSE & BOSCO, LTD.
Attorney No. 37346
200 North LaSalle Street, Suite 2810
Chicago Illinois 60610
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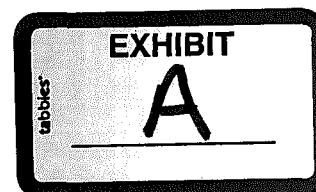
COMMUNITY LANDFILL COMPANY,)
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Respondent.)

AFFIDAVIT OF CLARISSA CUTLER GRAYSON

I, CLARISSA CUTLER GRAYSON, being duly sworn on oath and affirmation, do hereby depose and state as follows:

1. I am one of the attorneys for Community Landfill Company, Inc. ("CLC") and am a partner in the law firm of LaRose & Bosco, Ltd. which represents CLC in the above referenced matter currently pending in the Illinois Pollution Control Board.

2. The factual basis for the Motion to Cancel Hearing is set forth herein and in the letters from his physicians, Dr. Daniel Rowan, Mr. Pruum's cardiologist (see Dr. Rowan letter dated September 22, 2006, attached to this Affidavit as Exh. 1) and Dr. Timothy Wollner, Mr. Pruum's



family physician (see Dr. Wollner letter dated September 21, 2006 attached to this Affidavit as Exh. 2).

3. I have been informed that Edward Pruiim, Secretary/Treasurer of CLC, recently underwent emergency quintuple bypass surgery which was complicated by the presence of an aortic aneurism. (See attached Exhs. 1 and 2). I have been informed that Mr. Pruiim was hospitalized from August 26-September 9, 2006 at both Palos Community Hospital and Christ Hospital. (See attached Exhs. 1 and 2). I have been informed that Mr. Pruiim was readmitted to the hospital on September 11, 2006 with a blood clot on his lung, and after receiving treatment for this condition, he was released on September 17, 2006. (See attached Exhs. 1 and 2). I have been informed that he is currently recovering at his home and is receiving continued treatment for the blood clot and heart condition. (See attached Exhs. 1 and 2).

4. I have been informed that in the professional opinion of his physicians, Mr. Pruiim will be unable to undergo any stressful work-related activities for at least 5-6 months and that this would include any participation by way of testimony or preparation in the legal proceedings now scheduled before the Illinois Pollution Control Board on December 11-15, 2006. (See attached Exhs. 1 and 2). I have been informed that the stress of having to prepare for and testify in this matter could seriously and adversely affect Mr. Pruiim's recovery and health and that Mr. Pruiim is physically unable to either prepare for or participate in the hearing scheduled for December 11-15, 2006. (See attached Exhs. 1 and 2).

5. I have been informed that in the opinion of Mr. Pruiim's physicians, his physical condition should be reviewed in March, 2007 for his ability to participate in this proceeding. (See attached Exhs. 1 and 2).

6. The history of this matter's proceedings is as follows. On May 1, 1997, Complainant filed its first complaint in the 1997 matter naming CLC as the sole respondent and contained six (6) counts alleging violations relating to managing refuse and litter, leachate flow, landscape waste, financial assurance, failure to file a significant modification permit, and water pollution. Complainant then filed a First Amended Complaint on April 3, 1998 with CLC again as the sole respondent. The First Amended Complaint included four (4) additional counts alleging violations relating to overheight of the landfill.

On November 24, 1999, over CLC's strenuous objections, complainant filed a Second Amended Complaint, again only naming CLC as respondent. The Second Amended Complaint included twelve (12) additional counts, for a total of twenty-two counts, alleging violations relating to asbestos, used tires, the gas collection facility, leachate disposal, final cover, financial assurance, and failure to provide revised cost estimates.

On April 5, 2001, the Board ruled against CLC on its motion for summary judgment in regard to Counts V and XII of the Second Amended Complaint. CLC filed a motion for reconsideration on May 15, 2001. On July 26, 2001, the Board reversed its decision on Count XII by finding in favor of CLC on liability and dismissing that count. The Board affirmed its ruling against CLC on Count V and ordered a hearing on penalty.

On October 3, 2002, the Board issued an extensive order regarding the parties' cross-motions for summary judgment in the 1997 case against CLC. The Board found in favor of CLC on Counts XI, XVIII, and XXII of the Second Amended Complaint and dismissed those counts against CLC. The Board denied the Complainant's motion for Summary Judgment on Counts I, II, VI, XV, XVII, XIX (in part) and XX of the Second Amended Complaint, and ordered a hearing on liability on those

counts. Finally, the Board found in favor of Complainant on Counts III, IV, V, VII, VIII, IX, X, XIII, XIV, XVI, XIX (in part) and XXI and ordered a hearing on penalty on those counts. (See Exh. C).

On December 5, 2003, Complainant filed a motion before the Board wherein it requested leave to file its Third Amended Complaint naming Edward Pruim and Robert Pruim, the principals of CLC, as additional respondents. That motion was unanimously denied by the Board on March 18, 2004. (See Exh. A). On May 21, 2004, Complainant then filed a complaint against Edward Pruim and Robert Pruim individually, which, after the Board dismissed Count XII of the 2004 complaint, left eighteen (18) counts remaining against Edward Pruim and Robert Pruim individually. Because the underlying allegations in the 1997 and 2004 cases are identical, the Board consolidated them on February 17, 2005.

On September 10, 2004, Edward Pruim and Robert Pruim filed motions to dismiss which were denied by the Board on November 4, 2004. Edward Pruim and Robert Pruim answered the complaint on January 4, 2005. Because the underlying allegations in the 1997 and 2004 cases are essentially identical, the Board consolidated the matters on February 17, 2005.

On January 13, 2006, Edward Pruim and Robert Pruim filed motions for summary judgment which were denied by the Board on April 20, 2006. On May 30, 2006, Edward Pruim and Robert Pruim filed a motion for reconsideration which was denied by the Board on June 15, 2006. On June 27, 2006, the matter was scheduled for hearing on December 11-15, 2006.

7. No cancellation requests have been granted in this proceeding. This is the first request for cancellation that has been made.

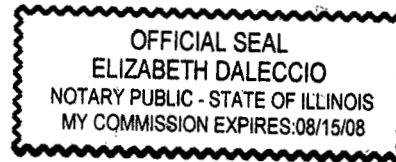
8. The information contained in this Affidavit is based on my personal knowledge. If called upon to do so, I could competently testify to same.

Further, Affiant sayeth naught.

Clarissa C. Grayson

Clarissa Cutler Grayson

SUBSCRIBED AND SWORN TO
before me this 22 day of
September, 2006



Elizabeth Daleccio

NOTARY PUBLIC



Cardiovascular Consultants, LLP

THOMAS J. QUINN, M.D., F.A.C.C., F.A.C.P.
JOSEPH W. MULARCZYK, M.D., F.A.C.C.
DANIEL A. ROWAN, D.O., F.A.C.C., F.A.C.P., F.S.C.A.I.
EVANS P. PAPPAS, M.D., F.A.C.C.
CHRISTOPHER J. SULLIVAN, M.D., F.A.C.C.

September 21, 2006

Ms. Clarissa Cutler Grayson
LaRose & Bosco, Ltd.
200 N. LaSalle Street, Suite 2810
Chicago, IL 60602

Re: Edward Pruim

Dear Ms. Grayson:

I am a cardiovascular physician and have practiced medicine for 20 years. Edward Pruim has been my patient for one month, and I am quite familiar with his medical history.

Mr. Pruim recently underwent emergency quintuple bypass surgery, which was complicated by the presence of an aortic aneurysm. Mr. Pruim was hospitalized from August 26 - September 9, 2006 in both Palos Community Hospital and Christ Hospital. I performed an angiogram and examined him numerous times during this hospitalization. Mr. Pruim was readmitted to Christ Hospital on September 11, 2006 with a blood clot on his lung. After receiving treatment for this condition, he was released on September 17, 2006. He is currently recovering at his home and is receiving continued treatment for the blood clot and heart condition. I am continuing to monitor his physical condition.

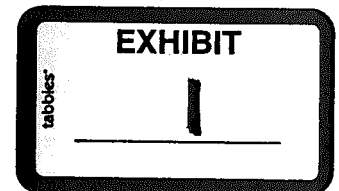
In my professional opinion, Mr. Pruim will be unable to undergo any stressful work-related activities for at least 5-6 months. This would include any participation by way of testimony or preparation in the legal proceedings now scheduled before the Illinois Pollution Control Board on October 24-27, 2006 and December 11-15, 2006. The stress related to having to prepare for and testify in a legal matter could seriously and adversely affect Mr. Pruim's recovery and health.

As his physician, I advise you that it is my opinion that Mr. Pruim is physically unable to either prepare for or participate in these hearings at this time. It would be my recommendation that his physical condition be reviewed in March, 2007, at which time I would be happy to again render an opinion as to his ability to participate in these legal proceedings.

Thank you. If you have any further questions for me, please do not hesitate to contact me.

Sincerely yours,

Daniel A. Rowan, D.O., FACP, FACC



Timothy S. Wollner, D.O., A.B.F.P.
John C. Elser, M.D., A.B.F.P.
Family Practice
3754 West 95th Street
Evergreen Park, IL 60805

September 21, 2006

Ms. Clarissa Cutler Grayson
LaRose & Bosco, Ltd.
200 North LaSalle Street, Suite 2810
Chicago, IL 60601

Re: Edward Pruim

Dear Ms. Grayson:

I have been Edward Pruim's Family Physician for over ten years. Mr. Pruim recently underwent emergency quintuple bypass surgery which was complicated by the presence of an aortic aneurism. Mr. Pruim was hospitalized from August 26 - September 9, 2006 at both Palos Community Hospital and Christ Hospital. I examined him numerous times during his hospitalization. Mr. Pruim was readmitted to the hospital on September 11, 2006 with a blood clot on his lung. After receiving treatment for this condition, he was released on September 17, 2006. He is currently recovering at his home and is receiving continued treatment for the blood clot and heart condition. I am continuing to monitor his physical condition.

In my professional opinion, Mr. Pruim will be unable to undergo any stressful work-related activities for at least 5 to 6 months. This would include any participation by way of testimony or preparation in the legal proceedings now scheduled for October 24 - 27, 2006 and December 11 - 15, 2006. The stress related to having to prepare for and testify in a legal matter could seriously and adversely affect Mr. Pruim's recovery and health.

As his physician, I advise you that it is my opinion that Mr. Pruim is physical unable to either prepare for or participate in these hearing at this time. It would be my recommendation that his physical condition be reviewed in March, 2007 at which time I would be happy to notify you as to his ability to participate in these legal proceedings.

Thank you. If you have any further questions for me, please do not hesitate to contact me.

Sincerely,



Timothy S. Wollner, D.O., A.B.F.P.

