

1 ILLINOIS POLLUTION CONTROL BOARD
2 CITY OF CHICAGO DEPARTMENT)
3 OF ENVIRONMENT,)
4 Complainant,)
5 vs.) AC 07-25
6 1601-1759 EAST 130th STREET,) (Administrative
7 L.L.C.,) Citation)
8 Respondent.)

9

10 TRANSCRIPT OF PROCEEDINGS had in the
11 above-entitled cause before Hearing Officer
12 Bradley P. Halloran, called by the Illinois
13 Pollution Control Board, pursuant to notice, taken
14 before Sharon Berkery, CSR, a notary public within
15 and for the County of Cook and State of Illinois, at
16 the James R. Thompson Center, 100 West Randolph
17 Street, Room 11-512, Chicago, Illinois, on the 17th
18 day of May, A.D., 2007, commencing at 2:30 p.m.

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1 APPEARANCES:

2

3 CITY OF CHICAGO,

4 Department of Law

5 Aviation, Environment & Regulatory Section

6 Room 900

7 30 North LaSalle Street

8 Chicago, Illinois 60602

9 312-742-3990

10 MS. JENNIFER A. BURKE, Senior Counsel

11 and

12 CITY OF CHICAGO,

13 Department of Law

14 Revenue Litigation Division

15 Room 900

16 30 North LaSalle Street

17 Chicago, Illinois 60602

18 312-744-1438

19 MR. GRAHAM G. McCAHAN, Assistant Corporation

20 Counsel

21 appeared on behalf of the Complainant;

22

23

24

1 APPEARANCES (Cont'd.):

2

3 JEFFREY J. LEVINE, P.C.,

4 20 North Clark Street

5 Suite 800

6 Chicago, Illinois 60602

7 312-372-4600

8 MR. JEFFREY J. LEVINE,

9 appeared on behalf of the Respondent.

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23 REPORTED BY: SHARON BERKERY, C.S.R.

24 CERTIFICATE NO. 84-4327.

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I N D E X

Page

WITNESS DX CX RDX RCX

STANLEY KAEHLER

By Mr. Levine.....14.....70

JOSE GONZALEZ

By Mr. Levine.....29

By Ms. Burke.....35

E X H I B I T S

NUMBER MARKED FOR ID RECEIVED

Complainant's Exhibit

No. A.....47

Respondent's Exhibit

No. A.....41

1 THE HEARING OFFICER: Good afternoon.
2 My name is Bradley Halloran, I'm a hearing
3 officer here with the Illinois Pollution
4 Control Board. I'm also assigned to this
5 matter entitled City of Chicago versus
6 1601-1759 East 130th Street LLC, it is
7 docketed at the Board as AC 07-25.

8 This matter is also related to
9 AC 6-39, AC 6-40 and AC 6-41. Today is
10 May 17th, 2007, it's approximately 2:30 p.m.

11 The administrative citation
12 alleges that respondent violated Section P1
13 and Section P17I of the Act. As a result,
14 the petitioner filed a petition or review and
15 that's why we're here today.

16 This matter will be conducted in
17 accordance with Section 108, Section 101
18 Subpart F of the Board's procedural rules. I
19 want to note for the record that I do not
20 make the ultimate decision, that's left up to
21 the Board.

22 With that said, I do want to make
23 a comment that there are no members of the
24 public present, other than the parties

1 affiliated with the captioned matter.

2 The City, would you introduce
3 yourself, please.

4 MS. BURKE: Jennifer Burke for the
5 City of Chicago.

6 MR. McCAHAN: Graham McCahan, for the
7 City of Chicago.

8 MR. KAEHLER: Stanley Kaehler for the
9 City of Chicago.

10 THE HEARING OFFICER: Thank you.

11 Mr. Levine?

12 MR. LEVINE: Jeff Levine for the
13 respondent in this matter, 1601-1759 East
14 130th Street LLC.

15 THE HEARING OFFICER: Terrific.

16 Ms. Burke, would you like to give
17 an opening?

18 MS. BURKE: Briefly.

19 The evidence will show in this
20 hearing that on October 3rd, 2006, the
21 respondent, 1601 to 1759 East 130th Street
22 LLC violated Section 21P of the Illinois
23 Environmental Protection Act by causing or
24 allowing open dumping at 1601 East 130th

1 Street in Chicago, which resulted in litter,
2 and deposition of general construction and
3 demolition debris. We believe the Board will
4 find that the statutory penalty is
5 appropriate here.

6 THE HEARING OFFICER: Thank you.

7 Mr. Levine?

8 MR. LEVINE: It is our contention that
9 there's no evidence that a violation of 21P
10 took place as no open dump -- there was no
11 evidence that the LLC caused or allowed open
12 dumping, litter or construction demolition
13 debris.

14 THE HEARING OFFICER: Thank you,
15 Mr. Levine.

16 Ms. Burke, would you like to -- do
17 you want to direct your witness now?

18 MS. BURKE: We need to swear the
19 witness in.

20 THE HEARING OFFICER: Right. Right.

21 Sharon will swear the witness in.

22 (WHEREUPON, the witness was duly
23 sworn.)

24 STANLEY KAEHLER,

1 called as a witness herein, having been first duly
2 sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. BURKE:

5 Q. Please state your name.

6 A. Stanley Kaehler, K-A-E-H-L-E-R.

7 Q. And what is your occupation?

8 A. I'm a field supervisor for the

9 Department of the Environment.

10 Q. And your employer is the City of
11 Chicago?

12 A. That is correct.

13 Q. And how long have you held that
14 position?

15 A. I've held the supervisor position for
16 the last three years.

17 Q. And did you work for the City before
18 that?

19 A. Yes, I have.

20 Q. In what capacity?

21 A. I worked for Streets and Sanitation
22 for ten years, worked for the police department for
23 four years and then actually went into the
24 Department of Environment as an environmental

1 investigator from 1994 to 2003.

2 Q. And when you joined the Department of
3 Environment in 1994, what was your job title?

4 A. My job title was an environmental
5 investigator for the City. It was, basically, to go
6 out and view field inspections for violations of
7 municipal code and also the State.

8 Q. Approximately how many site
9 inspections do you perform each week?

10 A. A rough estimate, probably about --
11 anywhere between 20 and 25.

12 Q. Are you familiar with the property at
13 1601 East 130th Street?

14 A. Yes, I am.

15 Q. Did you visit that property on
16 October 3rd, 2006?

17 A. Yes, I did.

18 Q. How did you come to be at the property
19 on October 3rd?

20 A. I received a call from the office
21 saying that a complaint came in that there was some
22 illegal dumping going on at that location.

23 Q. And did you drive to the property?

24 A. Yes, I did.

1 Q. And did you enter the property?

2 A. No, I didn't.

3 Q. Did you observe the property from the
4 outside of the site line?

5 A. Yes, I did.

6 Q. And I'm going to show you what's
7 marked as City Exhibit A.

8 Can you page through this briefly?

9 MR. LEVINE: Do I have that now?

10 MS. BURKE: It's D in your...

11 MR. LEVINE: I think I have D. Is
12 that it right here (indicating)?

13 THE HEARING OFFICER: Thank you.

14 MR. LEVINE: That's 71 through 78?

15 MS. BURKE: Yes.

16 MR. McCAHAN: Yes.

17 BY MS. BURKE:

18 Q. What is the document I handed you
19 marked City Exhibit A?

20 A. This is my field report from that
21 inspection on October 3rd of 2006.

22 Q. And briefly, what are the types of
23 documents that are included in Exhibit A?

24 A. In Exhibit A, it includes the Illinois

1 Environmental Protection Act Open Dump Checklist, a
2 narrative written by myself, a site sketch, actually
3 an aerial of the facility, and apparent violations,
4 City and State violations and also photos.

5 Q. And is Exhibit A a complete copy of
6 your report?

7 A. Yes. Yes, it is.

8 Q. And when did you prepare this report?

9 A. The written narrative was actually
10 done right on-site, the photos were, basically,
11 printed up the next day along with remaining
12 documents.

13 Q. And does the report accurately
14 describe the condition of the site as you observed
15 it on October 3rd?

16 A. Yes, it does.

17 Q. And does the Department of Environment
18 keep this report in the ordinary course of business?

19 A. Yes, they do.

20 Q. Are the photographs attached to the
21 report the photographs you took on October 3rd?

22 A. Yes, they are.

23 Q. And do the photographs accurately
24 depict the condition of the property on October 3rd?

1 A. Yes, they do.

2 Q. When you arrived at the outside of the
3 property on October 3rd, what did you see?

4 A. Well, upon arrival -- first, the
5 entrance of the site was locked with a chain. So,
6 basically, myself and Investigator Robertson, what
7 we did was, we tried to walk along the berm to see
8 if we could actually see what was going on on the
9 site.

10 So there was a path that wasn't
11 really, you know, cluttered with tall weeds and
12 trees, that we actually were able to walk onto the
13 berm to actually view the property. On the
14 property, we observed in the northwest corner of the
15 site, roughly, about 30 individual loads of
16 construction and demolition debris.

17 And toward the center of the
18 property there was another pile, probably about
19 15 cubic yards, of broken concrete that was dumped
20 on the site.

21 Q. Did you see any other types of
22 materials on the property?

23 A. No, just between the concrete and, you
24 know, what is either asphalt grindings or soil, we

1 could not actually, you know, tell from where we
2 were.

3 Q. How tall was the berm -- the berm that
4 you saw on the edge of the property?

5 A. Well, the berm is probably about four
6 feet high.

7 Q. And did you walk to the top of the
8 berm?

9 A. Yes, we did.

10 Q. And could you see the entire site from
11 that vantage point?

12 A. Yes, we could.

13 Q. Were there any buildings on the site?

14 A. Yes, there was.

15 Q. How many buildings?

16 A. I believe there was only one building,
17 and there were some port-a-potties that were there.

18 Q. Were there any vehicles on the
19 property?

20 A. I don't recall. I'd have to look at
21 my photos to verify that.

22 I don't think there was.

23 Q. Were there any people on the property,
24 other than yourself and Mr. Robertson?

1 A. No, there was no other person on that
2 site.

3 Q. Do you know where the materials that
4 you saw on the site came from?

5 A. No, I don't.

6 Q. Did the materials on the property come
7 from the site itself?

8 A. No, they didn't.

9 MS. BURKE: I would move to enter into
10 evidence Exhibit A.

11 MR. LEVINE: Subject to cross -- no
12 objections, subject to cross.

13 THE HEARING OFFICER: Okay.

14 MS. BURKE: I have no further
15 questions.

16 THE HEARING OFFICER: Thank you,
17 Ms. Burke.

18 Mr. Levine?

19 MR. LEVINE: Thank you, Mr. Halloran.

20 CROSS-EXAMINATION

21 BY MR. LEVINE:

22 Q. Sir, you don't know where the debris
23 came from; correct?

24 A. That is correct.

1 Q. And do you know where the complaint
2 came from that said Speedy is dumping -- I'm sorry.

3 What was the complaint you
4 received?

5 A. The complaint that I received over the
6 radio was that there was some illegal dumping going
7 on at that location.

8 Q. Did the complaint allege that Speedy
9 has dumped new C and D waste on the site?

10 A. It didn't allege anybody, it just said
11 there was illegal dumping going on.

12 Q. Directing your attention to Page 73 of
13 Exhibit --

14 MS. BURKE: A.

15 BY MR. LEVINE:

16 Q. -- A. Is that your narrative?

17 A. Yes.

18 Q. Is that signed by you?

19 A. Yes, it is.

20 Q. And that's a completed investigation;
21 correct?

22 A. That is correct.

23 Q. And doesn't the first sentence say
24 that you and Investigator Robertson received a

1 complaint alleging Speedy has dumped new C and D
2 waste on the site?

3 A. Yes, I do. I recall that now after I
4 read the narrative.

5 Q. Did the complaint come from Raphael
6 Maciel?

7 A. That, I don't know.

8 Q. When you get complaints, do they
9 usually identify the owner of the property?

10 A. No.

11 Q. So the complaint that you and
12 inspector -- Investigator Robertson received, the
13 person who called in the complaint knew the owner of
14 the property; correct?

15 A. I don't know if -- how the complaint
16 came in. All I know is when I was dispatched, you
17 know, the person that actually takes the phone
18 calls, they check the system to see how many times
19 we've been there.

20 So when they took -- you know,
21 took the complaint, they checked the database, found
22 out it was actually -- you know, we had been there
23 on several occasions, and it said Speedy, and that's
24 how they dispatched it.

1 Q. But you don't know; correct?

2 A. I don't know who actually called it in
3 and whether or not they identified, you know, the
4 location as, you know, Speedy.

5 Q. Now it's identified as Speedy, not
6 Jose Gonzalez; correct?

7 A. That is correct.

8 Q. And Speedy is Mr. Gonzalez' nickname;
9 is it not?

10 A. That is correct.

11 Q. So would you agree with me that the
12 person who called in the complaint was aware of
13 Mr. Gonzalez' nickname, as opposed to his given
14 name?

15 A. I can't say that.

16 Q. Okay.

17 A. To clarify, in our database we have
18 the site; okay? When we go to an inspection, we
19 actually have a name of the site.

20 This site is actually in our
21 database as Speedy Gonzalez. So if you were to pull
22 the records, it would say Speedy Gonzalez.

23 Q. Now, the allegation is that Speedy has
24 dumped new C and D. What is C and D?

1 A. Construction and demolition debris.

2 Q. And the complaint specifically alleged
3 that Mr. Gonzalez had dumped the waste on the site;
4 correct?

5 A. It just said -- it alleged that there
6 was some dumping going on on the property. Okay.

7 Q. But your narrative evaluation summary
8 doesn't state that; does it?

9 A. It says Speedy was -- has allegedly,
10 you know, dumped C and D. Whether, you know, the
11 complaint specifically said that he did it, that's
12 what the alleged complaint came in off of the radio.

13 Q. So rather than receiving a complaint
14 that material has been dumped on the yard, this
15 particular complaint alleged that a specific
16 individual dumped at a yard; correct?

17 A. That's the way it was dispatched to
18 me.

19 Q. All right. Is it usual for you to get
20 a complaint with that kind of specificity?

21 A. Yes.

22 Q. Now, do you know who dumped the debris
23 on the yard?

24 A. No, I don't.

1 Q. Do you know whether the LLC, the
2 respondent in this case, caused or allowed the
3 dumping at this yard?

4 A. It was on his property, how else did
5 they get in? The gates are locked.

6 MR. LEVINE: I move to strike the
7 nonresponsive answer and request the Court to
8 instruct the witness to answer the question
9 posed to him.

10 THE HEARING OFFICER: Ms. Burke?

11 MS. BURKE: I need to hear the
12 question again.

13 THE HEARING OFFICER: Could you please
14 read back the question, please?

15 (WHEREUPON, the record was
16 read by the reporter.)

17 BY MR. LEVINE:

18 Q. That's a yes or no question, sir.

19 THE HEARING OFFICER: I agree.

20 Objection sustained.

21 Yes or no?

22 BY THE WITNESS:

23 A. No.

24

1 BY MR. LEVINE:

2 Q. And yet you cited the LLC with a
3 violation; correct?

4 A. That is correct.

5 Q. This is based on your investigation;
6 correct?

7 A. That is correct.

8 Q. Are you aware of fly dumping that goes
9 on in the City?

10 A. Yes, I am.

11 Q. And is fly dumping a problem in the
12 City?

13 A. Yes, it is.

14 Q. And the Department of Environment had
15 previously been out to that site numerous times; is
16 that correct?

17 A. That is correct.

18 Q. Has anyone in your investigation from
19 the Department of Environment ever seen trucks come
20 to bring waste to the property?

21 A. No.

22 Q. Are you aware whether or not the fence
23 on the property has ever been breached before?

24 A. No.

1 Q. And would you agree with me that if
2 the site was secured, the LLC would not have caused
3 or allowed the debris to be on the property?

4 A. That is correct.

5 Q. Would you also agree with me that
6 there are times when illegal dumpers breach security
7 on specific property?

8 A. I have never come across that.

9 Q. You've never come across an instance
10 where a fly dumper is able to either knock down a
11 fence or cut through a gate to dump, the entire time
12 you've been an investigator for the Department of
13 Environment?

14 A. I have never seen someone break into a
15 gate and dump.

16 Q. In your investigation in this matter,
17 as supervisor, were you aware of prior instances of
18 this specific gate at this property being broken?

19 A. No.

20 Q. When you were on the property, did you
21 see pieces of gate towards the entrance on the
22 ground where they had previously been knocked down?

23 A. No.

24 Q. Would you agree with me that an owner

1 of the property is given time to remove debris?

2 A. After being cited.

3 Q. Well, let me ask you this: Can you
4 answer the question as I asked it?

5 A. Yes.

6 Q. So you would agree with me that -- I'm
7 sorry.

8 You would agree with me that an
9 owner, if he discovers debris on his site, is given
10 time to remove the debris; correct?

11 A. That would be correct.

12 Q. And would you agree with me that the
13 time he is given depends on how much debris is put
14 on the site?

15 A. That is correct.

16 Q. And I believe you previously testified
17 that people are given 15 to 30 days to remove
18 debris; correct?

19 A. Correct.

20 Q. And you stated that that's not in any
21 statute anymore, that's just generally what the
22 Department of Environment allows; is that correct?

23 A. That is correct.

24 Q. And you further previously testified

1 that the amount of time you allow someone to clean
2 the property depends on the amount of waste placed
3 on the property; correct?

4 A. That is correct.

5 Q. Now, was the LLC, the respondent in
6 this case, given time to remove the debris from the
7 property?

8 A. After writing the initial citation;
9 sure.

10 Q. And what evidence do you have that the
11 debris on the property, that you noticed on
12 October 3rd, was authorized by the respondent, the
13 LLC?

14 A. I don't have any information saying
15 that it was authorized.

16 Q. What information do you have that the
17 respondent caused or allowed it to be on the
18 property?

19 A. It was on his property. There was no
20 actual visual signs of -- at the time of my
21 inspections -- of where somebody would, you know,
22 basically, you know, broke into the gate or anything
23 like that.

24 Q. Did you do any further investigation

1 to determine whether anyone had broke in?

2 A. No.

3 Q. Is it your opinion that they're
4 responsible whether or not they caused or allowed
5 the violation?

6 A. Yes.

7 Q. And that's contrary to the statute;
8 correct?

9 A. That is correct.

10 Q. So you believe someone can do a
11 violation which is contrary to the statute?

12 A. No. Basically, they caused and
13 allowed it. I agree with the statutes.

14 Q. But what I asked you is, whether or
15 not if someone didn't know about it and it was fly
16 dumped on their property, whether that means that
17 they caused or allowed it?

18 A. They caused and allowed it, yes.

19 Q. And that's your opinion; correct?

20 A. Yes.

21 Q. And the reason he caused or allowed it
22 is because he knew about it and refused to do
23 anything or either halted or started removing it; is
24 that your position?

1 A. The position is that it was on his
2 property, it's there and that's the reason why he,
3 you know, caused and allowed it. It was there. I
4 don't know how long it was there.

5 All I know is that it was there on
6 the day of, you know, my inspection and, basically,
7 you're talking about a good 30 loads.

8 Q. Let me -- at Page 64 of your
9 deposition dated April 12th, 2007 --

10 MR. LEVINE: Page 64, counsel.

11 BY MR. LEVINE:

12 Q. -- were you asked the following
13 question and did you give the following answer?

14 Q. "Are the violations listed as
15 causing or allowing it?

16 A. And, basically, him being the
17 owner and, you know, having
18 that much waste on the site,
19 he caused and allowed it
20 because he knew the waste was
21 there and he refused to or
22 did nothing to either halt it
23 or start removing it."

24 Was that your testimony on the

1 day of your deposition?

2 A. It was my testimony. I believe that
3 was to the prior case, not to this case.

4 Q. And do you have that same opinion with
5 regard to this case?

6 A. Yes.

7 Q. Now, how do you know he was aware of
8 it?

9 A. It's on his property. I mean, if --

10 Q. How long?

11 A. -- the gate's fixed -- okay.

12 Allegedly, you know, if someone
13 broke into the gate, the gate's fixed, it's locked.
14 My estimate is, basically, if -- how is someone
15 getting into the property and dumping if the site is
16 secured?

17 If someone broke into the site,
18 someone had to fix the gate. So if they came in and
19 fixed the gate, then they would know, basically,
20 that the piles of debris are out there.

21 Q. And then the respondent would have a
22 reasonable time, once they discovered it, to remove
23 it; correct?

24 A. After issuing a citation.

1 Q. And the citation is the allegation;
2 correct?

3 A. That is correct.

4 Q. And the allegation alleges that the
5 respondent caused or allowed the debris; correct?

6 A. That is correct.

7 Q. And, you assume, because the gate was
8 locked, that the respondent, in this instance,
9 caused or allowed it?

10 A. That is correct.

11 Q. And you have no other evidence or
12 information that the respondent caused or allowed
13 the dumping?

14 A. No.

15 MR. LEVINE: Nothing further from this
16 witness.

17 THE HEARING OFFICER: Thank you.

18 Ms. Burke, redirect?

19 MS. BURKE: No.

20 THE HEARING OFFICER: Sir, you may
21 step down.

22 THE WITNESS: Thank you.

23 THE HEARING OFFICER: Thank you.

24

1 (WHEREUPON, the witness was
2 excused.)

3 THE HEARING OFFICER: Off the record.

4 (WHEREUPON, discussion was had
5 off the record.)

6 (WHEREUPON, a recess was had.)

7 THE HEARING OFFICER: All right.

8 We're back on the record.

9 The City has finished with their
10 first witness.

11 Ms. Burke, do you have any other
12 witnesses or would you like to rest?

13 MS. BURKE: The City rests.

14 THE HEARING OFFICER: Thank you very
15 much.

16 Mr. Levine, can we swear

17 Mr. Gonzalez in, please.

18 Sharon, if you would please swear
19 him in.

20 (WHEREUPON, the witness was duly
21 sworn.)

22 JOSE GONZALEZ,
23 called as a witness herein, having been first duly
24 sworn, was examined and testified as follows:

1 DIRECT EXAMINATION

2 BY MR. LEVINE:

3 Q. Do you have City A in front of you,
4 sir?

5 A. Yes.

6 Q. Please state your name and spell your
7 last name.

8 A. Jose Gonzalez, G-O-N-Z-A-L-E-Z.

9 Q. Sir, you've had prior run-ins with the
10 Department of Environment; correct?

11 A. Correct.

12 Q. And this occurred on March 22nd,
13 March 23rd and March 24th; correct?

14 A. Correct.

15 Q. And they were out at your property all
16 over the place; were they not?

17 A. Correct.

18 Q. And you received violations; correct?

19 A. Correct.

20 Q. Now, directing your attention to
21 October 3rd, 2006. Do you remember that date?

22 A. Yes, I do.

23 Q. That was a couple months after the
24 prior violation?

1 A. Correct.

2 Q. Is that approximately seven months
3 later?

4 A. Yes.

5 Q. After March of '06, did you continue
6 to have problems with people illegally dumping on
7 your property?

8 A. Yes.

9 Q. Were you aware the City was constantly
10 monitoring your property?

11 A. No.

12 Q. Could you look at the photographs at
13 Page 77 and 78 of City Exhibit A.

14 A. Okay.

15 Q. Is that your property?

16 A. Yes.

17 Q. What happened -- where is that -- I'm
18 looking at Photograph No. 1 on Page 77.

19 How did that debris end up on your
20 property?

21 A. Fly dump.

22 Q. And that's quite a bit of debris; is
23 it not?

24 A. Yep.

1 Q. Approximately how much debris is that,
2 by your estimation?

3 A. At least 600 yards -- six, 700 yards.

4 Q. Now, did you make efforts to secure
5 your yard?

6 A. Yes.

7 Q. Prior to October 3rd?

8 A. Yes.

9 Q. And what efforts did you make with
10 regard to working on the fence and the berms prior
11 to October 3rd?

12 A. Nothing. Just like I stated earlier,
13 we -- I had my mechanic weld those hinges onto the
14 fence. And we put another -- bigger lock and a
15 bigger chain.

16 Q. And how was the -- how did these
17 people -- how did the fly dumpers get in and deposit
18 the material at Photographs 1 and 2 and also 3 and
19 4 -- next page -- on your property?

20 A. They ripped -- there's a rod that goes
21 through the fence -- it's two gates and there's a
22 rod that goes right through the fence. What they
23 did, they ripped -- broke the rod and they just
24 pulled the chain right off.

1 The rod was holding the chain.

2 And what they did was they cut the rod and they just
3 opened the gates and left the chain and the lock on
4 the other gate.

5 Q. When did you discover this material on
6 your property, sir?

7 A. (No audible response.)

8 Q. Approximately, was it before
9 October 3rd?

10 A. Yeah.

11 Q. How did you come to discover it?

12 A. Because we stored -- we store -- I
13 let -- my sister, actually, stores port-a-potties on
14 the site. If you look at Photograph 3, they're on
15 that little pad that I was talking about.

16 There's port-a-potties there, and
17 she called me and she told me -- maybe, like three,
18 four weeks before that, she told me that somebody
19 really had gone in there and dumped stuff. So I
20 just sent my guy Bob.

21 And I told Bob to fix stuff, to
22 fix it so they wouldn't get back in there.

23 Q. And did Bob work on the gate?

24 A. Yeah.

1 Q. Did he repair the gate?

2 A. Yeah.

3 Q. What is the status -- how long was the
4 material on your property from the time you repaired
5 the gate?

6 A. The material is still there.

7 Q. Does it need to be removed?

8 A. Yeah.

9 Q. Did you or anyone at your direction
10 cause or allow that dumping of that waste?

11 A. No.

12 Q. What are your plans for the property,
13 sir?

14 A. The plans -- the future plans for the
15 property is hopefully by the end of -- by towards
16 November, if everything goes well in permitting and
17 I get the first permit for the building, we're going
18 to construct a 42,000 square foot building. The
19 property is divided into three lots.

20 The lots are like two-and-a-half
21 acre parcels. And the far west lot, where the
22 dumping is at, that's where the first building is
23 going to go.

24 Q. Have you determined how much it would

1 cost you to remove all this waste that's been dumped
2 on the property?

3 A. I'm saying it's like 700 yards of
4 waste. You could probably put like 14 yards on a
5 truck.

6 And normally -- it's just like
7 construction debris that's there. It normally costs
8 between two to 250, the trucking and the disposal.

9 Q. So how much total to clean all this
10 up?

11 A. Well, that's like -- you probably got
12 like 30 trucks. So it would be -- let's say 30
13 trucks times \$200 apiece.

14 Maybe between six to \$7,500 to
15 dispose of it -- to haul it and dispose of it.

16 Q. Were you ever contacted by anyone at
17 the Department of Environment, around October of
18 2006, to ask you where the waste had come from or
19 whether you had caused or allowed it?

20 A. Never.

21 Q. Now, I'm showing you -- if you could
22 turn back to Page 73. Do you have that in front of
23 you?

24 A. Yes.

1 Q. Do you see the first line that says
2 that the investigators received a complaint alleging
3 Speedy had dumped new C and D waste on the site?

4 A. Yes.

5 Q. Is that your nickname, Speedy?

6 A. Yeah, everybody calls me Speedy.

7 Q. Do you know who would have called the
8 complaint into the Department of Environment
9 specifically mentioning you by your nickname?

10 A. Nope. I have no idea.

11 MR. LEVINE: Nothing further from this
12 witness.

13 THE HEARING OFFICER: Thank you.

14 Ms. Burke, cross?

15 MS. BURKE: Yes.

16 CROSS-EXAMINATION

17 BY MS. BURKE:

18 Q. On October 3rd -- do the pictures
19 attached to Exhibit A, let's see, at Pages 76 to 78,
20 reflect what the property looked like on October 3,
21 2006?

22 A. Yes.

23 Q. Does the respondent LLC, 1601 to 1759
24 East 130th Street LLC, did it own the property on

1 October 3rd, 2006?

2 A. Yes.

3 Q. On October -- strike that.

4 Has the Illinois Environmental
5 Protection Agency issued any permits to operate any
6 activities at this site?

7 A. Nope.

8 Can I say something on the
9 pictures, if possible?

10 Q. You might have a chance later, but not
11 now.

12 A. All right.

13 MS. BURKE: I have no further
14 questions.

15 THE HEARING OFFICER: Thank you.

16 Mr. Levine?

17 REDIRECT EXAMINATION

18 BY MR. LEVINE:

19 Q. Mr. Gonzalez, are you out of your
20 mind?

21 A. No.

22 Q. After getting numerous prior
23 complaints with regard to dumping on your property,
24 did you have a lot of concerns as to the security of

1 the property?

2 A. Yes.

3 Q. Would you have been nuts to have
4 allowed dumping on the property?

5 A. It doesn't make sense. Why am I going
6 to -- why should --

7 MS. BURKE: I've got to object to this
8 line of questioning. It's outside the scope
9 of my cross and argumentative.

10 THE HEARING OFFICER: Mr. Levine?

11 MR. LEVINE: I think it makes perfect
12 sense. She was asking whether he -- the
13 position of the City is that he caused or
14 allowed it.

15 And basically whether -- he owned
16 the property, whether he's responsible for
17 it.

18 THE HEARING OFFICER: You know, I'll
19 allow it in a very limited circumstance.

20 Mr. Gonzalez, if you want to
21 answer, you may.

22 BY THE WITNESS:

23 A. Well, basically, as far as my
24 business, when we dump -- when we load semis, we

1 send them straight to the landfill. Because it
2 doesn't make sense to dump the material on my own
3 property.

4 And once I dump it -- I've already
5 paid a semi to take it there, then I'm going to have
6 to pay an operator and another semi to haul it out.
7 They're not going to haul it out for free.

8 BY MR. LEVINE:

9 Q. So you would be paying double --

10 A. Double.

11 Q. -- if you were dumping it on your own
12 property; correct?

13 A. Right.

14 Q. Now, you have -- when you look at this
15 property, does it bring anything to mind, when you
16 look at these photographs?

17 A. Yes.

18 Q. Okay. What --

19 A. I'd like to add, for the record, if
20 you look at this -- this is what I'm saying: That
21 they're just going out there and taking pictures.
22 If you look at Picture 10, the picture --

23 Q. Photo number?

24 A. Photo No. 3. It says, "Concrete waste

1 dumped on-site."

2 That pile was already there from
3 the last time. They're going out there and taking
4 pictures of stuff that was already there that we
5 haven't cleaned up.

6 Because if I go out there, they're
7 going to start again with the troubles, and I don't
8 want no trouble. On Photograph 3, that was already
9 there.

10 Photograph 4, the only stuff that
11 was dumped was -- do you see where that concrete --
12 there's like a big bolder of concrete? I don't know
13 if you see it in the center there.

14 Q. The big round thing?

15 A. Yeah, that big round thing.

16 Q. It looks like a pill?

17 A. Correct. Just from that round thing,
18 back this way (indicating), that was dumped. All
19 the dirt that was there -- all this black dirt that
20 you see there -- all that dirt that was there, that
21 all stood there from the last time.

22 Q. That was previously --

23 A. That's already been there. You can
24 even see all the weeds around this.

1 It's got weeds growing, trees
2 growing through it, on all these pictures, if you
3 look at it. That stuff is already there.

4 They're just going out there -- I
5 mean, it's a private property. But they're just
6 going in there and taking pictures of stuff that's
7 already there.

8 They're going over the same
9 violations, over and over.

10 Q. Was the concrete dumped there? Did
11 somebody else come in and dump additional material
12 on the site?

13 A. From the bolder this way (indicating)
14 to all the stuff that looks new, you can see the
15 different colors in there.

16 Q. That's the white stuff?

17 A. Yeah.

18 Q. To the right of the bolder?

19 A. Correct. All that was dumped there
20 and it's packed in there, and there's like several
21 hundred yards of that stuff there.

22 Q. On Photo 4; correct?

23 A. Correct.

24 And then on Photo 3, that pile was

1 there and you can go cross-reference it with the
2 other pictures and you'll see it was there. And
3 it's even on their little chart, where they show
4 that pile right next to the port-a-potties.

5 That was there, we haven't touched
6 it. It all stood there, I haven't -- since that
7 last incident that we had when they told me to just
8 chill out and leave the property alone, I just
9 chilled out and I left it alone.

10 I haven't been -- I mean, I go
11 there, but we're just transferring port-a-potties in
12 and out of there. That's it.

13 Q. I'm showing you what's been marked as
14 Respondent's A for identification.

15 (WHEREUPON, a certain document was
16 marked Respondent's Exhibit
17 No. A for identification, as of
18 5/17/07.)

19 BY MR. LEVINE:

20 Q. Do you recognize this, sir?

21 A. Yes.

22 Q. What is that, sir?

23 A. This is the layout of -- this the
24 layout of the property where they're showing the

1 stuff.

2 Q. And that's from March 22nd, 2006;
3 correct?

4 A. Correct.

5 Q. And it's your contention that the
6 brown dirt contained in Photographs 1, 2 and 4 on
7 your property, as well as the concrete waste in
8 Photo 3, were on the site in Respondent's Exhibit A;
9 correct?

10 A. Correct.

11 Q. Could you point out, for the record,
12 specifically where each of these things were on
13 March 22nd, 2006?

14 A. That's where he's saying three
15 possible composts. That's right by where
16 those trailers -- past those trailers, that's where
17 it's at. Where it says "Landscape waste."

18 Q. Sir, let's start with Photograph
19 Nos. 1 and 2 on Page 77. Do you have that?

20 A. Yeah. Page 77, 1 and 2.

21 Q. The brown dirt that appears in the
22 photograph specifically in Photograph 2?

23 A. West of the bolder. Of that bolder.

24 Q. Yeah, so the big round pill thing.

1 A. You see where it says "Landscape
2 waste"?

3 Q. Why don't you point out what number
4 photograph --

5 A. On the map -- I can't read it. I
6 don't know if it's a nine or a four.

7 Do you see where it says
8 landscape?

9 Q. I can't see if it's a nine or a four
10 either. I think that's a nine. So let's go with --
11 okay.

12 Could you just -- describe where
13 it is compared to the street and what it appears to
14 be?

15 A. It appears to be No. 4. Because No. 3
16 is right on top of it.

17 Q. And how far is that from the street
18 and what direction?

19 A. It's on the west and it's right -- it
20 shows right against that berm.

21 Q. Is that just south of 130th Street?

22 A. Yeah. That's south of 130th, and it's
23 west on the property.

24 Q. Okay.

1 A. And is shows landscape waste and
2 that's the stuff that was there, that's been there.
3 And then if you look -- if you go back to this,
4 where it says "Port-o-Johns."

5 Q. Let's go to Photograph No. 3, Page 78
6 of City's Exhibit A.

7 A. Correct. If you go where it says
8 Port-o-Johns.

9 Q. Yes, sir.

10 A. Do you see where the Port-o-Johns are?
11 That's where he classified under where that stone
12 is. Because there's -- those are rocks.

13 They're like stone rocks, like
14 this (indicating).

15 Q. Okay.

16 A. They're --

17 Q. What your contention is --

18 A. It doesn't have a number. It's just
19 stone.

20 Q. -- is that the area where the -- in
21 the middle of Defendant's Exhibit A where it says
22 "stone;" correct?

23 A. Yes.

24 Q. Where the circle -- with the oval

1 around it?

2 A. Yes.

3 Q. That is what is shown in Photograph
4 No. 3 of City Exhibit A; correct?

5 A. Yes.

6 And you can see all -- if you look
7 at the photograph, you could see weeds and
8 everything growing right through the stones. I
9 mean, if that was just dumped, weeds are not going
10 to grow in a couple weeks, not through the stones
11 like that.

12 Q. Sir, did you cause or allow -- or did
13 you or the LLC or any entity or person working on
14 their behalf, cause or allow the addition of dumping
15 on the property?

16 A. No.

17 Q. Were you ever contacted by the City of
18 Chicago Department of Environment and asked to be
19 given a reasonable time to clean up this waste?

20 A. Never. I never even knew -- the first
21 that I found this out was you calling me and you
22 said, "Oh, you got more violations." And then that
23 was the end of it.

24 MR. LEVINE: Nothing further from

1 this -- oh, we'd offer Defendant's Exhibit A
2 into evidence.

3 THE HEARING OFFICER: Ms. Burke?

4 MS. BURKE: I guess I would object, to
5 the extent that it's one page of a larger
6 report dated March 22nd, 2006 and taking one
7 page out of it. It takes it out of its
8 context.

9 If we admit it into evidence, I'd
10 like to have the whole report.

11 THE HEARING OFFICER: This is taken
12 from Exhibit A?

13 MS. BURKE: Yes. Prior Exhibit A.

14 THE HEARING OFFICER: Complainant
15 Exhibit A? Prior Exhibit A. Correct.

16 From 0639 to 6-40 and 6-41.
17 you know what, I think the Board is competent
18 enough they cannot and it will be on the
19 record that this site drawing from
20 March 22nd, 2006 is part of the complainant's
21 Exhibit A in the prior cases.

22 With that said, I will allow
23 Mr. Levine -- and we'll take it into
24 evidence. That Respondent's Exhibit A.

1 any recross?

2 MS. BURKE: No.

3 THE HEARING OFFICER: Okay, thank you.

4 All right. You may step down,
5 sir.

6 (WHEREUPON, the witness was
7 excused.)

8 MR. LEVINE: Respondent has no further
9 witnesses. Respondent rests with regard to
10 07025.

11 THE HEARING OFFICER: Any rebuttal,
12 Ms. Burke?

13 MS. BURKE: No.

14 THE HEARING OFFICER: Thank you.

15 Are you going to save your closing
16 arguments, reserve them for the posthearing
17 brief?

18 MS. BURKE: Yes.

19 MR. LEVINE: Yes.

20 THE HEARING OFFICER: Do we want to
21 keep the same posthearing briefing schedule
22 we had in the earlier cases?

23 MR. LEVINE: We have no objection.

24 MS. BURKE: That's acceptable.

1 THE HEARING OFFICER: Terrific.

2 So let's go for -- the briefing
3 schedule for AC 7-25, complainant's opening
4 brief is due on or before June 13th, 2007.
5 Respondent's brief is due on or before
6 June 29th, 2007.

7 The City's reply, if any, is due
8 July 13th -- on or before July 13th, 2007.
9 I'm going to set public comment due on or
10 before June 8th.

11 Anything further we need to
12 discuss?

13 MS. BURKE: No, Your Honor.

14 MR. LEVINE: No from respondent,
15 Judge.

16 THE HEARING OFFICER: I do want to
17 thank all counsel for their utmost
18 professionalism and civility. You guys have
19 been beyond reproach.

20 And I appreciate it and have a
21 good day. Thank you.

22 MR. LEVINE: And we also want to thank
23 the Court for its time and expertise.

24

1 STATE OF ILLINOIS)

2) SS:

3 COUNTY OF COOK)

4 I, SHARON BERKERY, a Certified Shorthand
5 Reporter of the State of Illinois, do hereby certify
6 that I reported in shorthand the proceedings had at
7 the hearing aforesaid, and that the foregoing is a
8 true, complete and correct transcript of the
9 proceedings of said hearing as appears from my
10 stenographic notes so taken and transcribed under my
11 personal direction.

12 IN WITNESS WHEREOF, I do hereunto set my
13 hand at Chicago, Illinois, this 22nd day of
14 May, 2007.

15

16

17 Certified Shorthand Reporter

18

19 C.S.R. Certificate No. 84-4327.

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