

ILLINOIS POLLUTION CONTROL BOARD
July 12, 2007

ROBERT HABEEB,)
)
 Complainant,)
)
 v.) PCB 07-114
) (Citizens Enforcement - Noise)
 THE COACH HOUSE RESTAURANT,)
)
 Respondent.)

ORDER OF THE BOARD (by T.E. Johnson):

On May 16, 2007, Robert Habeeb (Habeeb) filed a complaint against The Coach House Restaurant (Coach House). The complaint concerns Coach House's tavern and restaurant located at 300 North Roselle Road in Roselle, Cook County. For the reasons below, the Board dismisses the complaint as frivolous.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), any person may bring an action before the Board to enforce Illinois' environmental requirements. *See* 415 ILCS 5/3.315, 31(d)(1) (2006); 35 Ill. Adm. Code 103. In this case, Habeeb alleges that Coach House is violating Sections 9.33 and 9.4 of the Cook County Environmental Control Ordinance by emitting loud noise at sound levels exceeding those permissible under that ordinance, resulting in a nuisance to the adjoining residential area. Habeeb asks the Board to order Coach House to cease and desist the business practices allegedly creating the disturbances. Complaint at 4.

Section 31(d)(1) of the Act provides that "[u]nless the Board determines that [the] complaint is duplicative or frivolous, it shall schedule a hearing." 415 ILCS 5/31(d)(1) (2006); *see also* 35 Ill. Adm. Code 103.212(a). A complaint is duplicative if it is "identical or substantially similar to one brought before the Board or another forum." 35 Ill. Adm. Code 101.202. A complaint is frivolous if it requests "relief that the Board does not have the authority to grant" or "fails to state a cause of action upon which the Board can grant relief." *Id.* Within 30 days after being served with a complaint, a respondent may file a motion alleging that the complaint is duplicative or frivolous. 35 Ill. Adm. Code 103.212(b). Coach House has filed no motion.

No evidence before the Board indicates that Habeeb's complaint is duplicative. By alleging violations solely of the Cook County Environmental Control Ordinance, however, the complaint fails to state a cause of action upon which the Board can grant relief and is therefore frivolous. In enforcement actions, the Board is generally authorized to hear only alleged violations of the Act and regulations adopted under the Act. *See* 415 ILCS 5/5(d), 31(c)(1), (d)(1) (2006). The Board lacks jurisdiction to adjudicate alleged violations of local ordinances like the Cook County Environmental Control Ordinance. *See* Flagg Creek Water Reclamation District v. Village of Hinsdale, PCB 06-141 (June 1, 2006) ("the Board on its own motion finds

that the alleged violations of [a local] ordinance are frivolous because they assert claims over which the Board lacks jurisdiction and thus request relief that the Board lacks authority to grant.”). Accordingly, the Board on its own motion dismisses Habeeb’s complaint as frivolous and closes this docket.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 12, 2007, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

John Therriault, Assistant Clerk
Illinois Pollution Control Board