

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  
69 W. Washington, 18th Floor  
Chicago, Illinois 60602

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

**PLEASE TAKE NOTICE** that on **FEBRUARY 21, 2008**, the undersigned caused to be electronically filed with Mr. John Therriault, Assistant Clerk of the Illinois Pollution Control Board, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601, the **RESPONDENTS COMMUNITY LANDFILL COMPANY, INC., ROBERT PRUIM 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

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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 Hearing Officer Bradley Halloran to cancel the hearing in this matter scheduled for April 7-10, 2008 and in support thereof, state as follows:

1. This matter is currently scheduled for hearing on April 7-10, 2008, 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 March 29, 2008.

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 letter from Ms. Grayson's physician, Dr. Brian Hartigan, Orthopedic Surgeon (see Dr. Hartigan's letter dated February 18, 2008, attached to the Affidavit as Exhibit 1).

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

8. Only one previous cancellation request has been granted in this proceeding. In granting this request, the Hearing Officer found good cause to grant the Respondents' Motion and that it was not brought as a result of a lack of diligence. This is only the second request for cancellation that has been made and is not brought as the result of a lack of diligence, but because of a physical injury making it impossible for me to participate in either the preparation for or in the hearing currently scheduled for April 7-10, 2008.

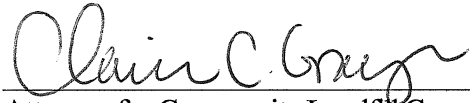
9. Clarissa Grayson's participation in preparation for and attendance at trial is necessary for the defense of this case (see Exh. A, ¶ 3). Respondents seek what is in essence a short continuance of the hearing date until after mid July, 2008.

10. This motion to cancel the hearing should be granted pursuant to 35 Ill. Adm. Code 101.510(b) as the attached affidavit and Exhibit 1 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 Exhibit 1).

WHEREFORE, Respondents Community Landfill Company, Inc., Edward Pruim and Robert Pruim respectfully request that Hearing Officer Bradley Halloran grant their Motion to Cancel Hearing pursuant to 35 Ill. Adm. Code 101.510, and set the matter for a short status so that a trial date

after mid-July 2008 can be set as soon as possible.

Respectfully submitted,



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

Mark A. LaRose  
Clarissa C. Grayson  
LAROSE & BOSCO, LTD.  
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INC.,	)	
	)	
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 an attorney with LaRose & Bosco, Ltd. and represent Community Landfill Company, Inc. (“CLC”) in the above referenced consolidated matters 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 letter from my orthopedic surgeon, Dr. Brian J. Hartigan. (See Dr. Hartigan’s letter dated February 18, 2008, attached to this Affidavit as Exh. 1.)



3. I have been involved with PCB No. 97-193 since I started with the firm in February 2001. I have been the primary attorney in these consolidated cases for several years, having drafted all pleadings and attended all status conferences. My participation in the preparation for the hearing and in the hearing itself is required due to my familiarity with all aspects of the case.

4. On January 17, 2008, I slipped on ice and fell, landing on my left elbow, which was fractured. I underwent surgery which required inserting wire into my left elbow (internal fixation). (See Exh. 1.) I have been attending occupational therapy twice a week and have required the use of a splint. (See Exh. 1.) I have been unable to use my left arm and am unable to drive. (See Exh. 1.) Because I am limited to the use of my right hand for work activities, it is impossible to handle the extensive numbers of documents involved with these cases and perform any related tasks involved in preparing for an extensive hearing. (See Exh. 1.)

5. Dr. Hartigan has informed me that in his opinion, I am unable to participate in the hearing currently scheduled for April 7-10, 2008 because I am unable to use my left hand in order to prepare or participate. (See Exh. 1.) He has further informed me that he anticipates that I will be able to participate in the preparation and in the hearing itself in approximately mid July, 2008. (See Exh. 1.)

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 which 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.

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. 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.

On September 22, 2006, Respondents moved the hearing officer to cancel the Dec. 11-15, 2006 hearing due to Edward Pruim's having undergone emergency quintuple bypass surgery that was complicated by the presence of an aortic aneurism and blood clot on his lung. Respondents' motion was granted on October 17, 2006, with the hearing officer having found good cause and that the motion was not brought as the result of any lack of diligence.

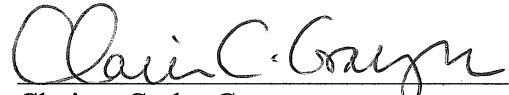
7. Only one previous cancellation request has been granted in this proceeding. In granting this request, the hearing officer found good cause to grant the respondents' motion and that it was not brought as the result of a lack of diligence. This is only the second request for cancellation that has been made and is not brought as the result of a lack of diligence, but because of a physical injury making it impossible for me to participate in either the preparation for or the hearing currently



scheduled for April 7-10, 2008. Respondents seek what is in essence a short continuance of the hearing date until after mid July, 2008.

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

Further, Affiant sayeth naught.

  
\_\_\_\_\_  
Clarissa Cutler Grayson

SUBSCRIBED AND SWORN TO  
before me this 21 day of  
February, 2008

  
\_\_\_\_\_  
NOTARY PUBLIC



Northwestern

Orthopaedic Institute, LLC

Adam W. Bennett, M.D.  
Mark K. Bowen, M.D.  
Victoria A. Brander, M.D.  
Charles Carroll, MD.  
Raju S. Ghatge, M.D.  
Brian T. Hartigan, MD.  
Armen S. Kelikian, M.D.  
Steven A. Kodros, M.D.  
Srdjan Mirkovic, MD.  
Mark T. Nolden, MD.  
Gordon W. Nuber, M.D.  
S. David Stulberg, M.D.  
Richard L. Wixson, MD.

February 18, 2008

680 N. Lake Shore Drive  
Suite 1028  
Suite 924  
Chicago, Illinois 60611

2501 Compass Road  
Suite 125  
Glenview, IL 60026

312-664-6848  
312-664-9271 Fax

RE: Clarissa Grayson  
MRN: 124475

To Whom It May Concern:

Ms. Grayson has been under my care for an injury that she sustained to her left elbow on 1/17/08. At that time, she fell on ice, fracturing the left elbow. She underwent surgery for this fracture on 1/25/08 consisting of open reduction and internal fixation. Since surgery, she has been undergoing occupational therapy and has required the use of a splint. She remains restricted with the left upper extremity. She is unable to drive and has limited use of her right hand for work activities.

Ms. Grayson has informed me that she is an attorney and is scheduled to participate in a four-day hearing from 4/7/08 until 4/10/08. In my opinion, Ms. Grayson is unable to participate in that hearing as she will not be able to use her left hand in order to prepare or participate. I anticipate that she will be able to participate in this hearing in approximately 7/08.

Please do not hesitate to contact my office if you have any further questions or concerns.

Sincerely,



Brian J. Hartigan, MD  
Assistant Professor of Orthopaedic Surgery  
Northwestern University, Feinberg School of Medicine  
Northwestern Orthopaedic Institute

BJH:sp



CERTIFICATE OF SERVICE

I, Clarissa C. Grayson, an attorney hereby certify that I caused to be served a copy of the foregoing **RESPONDENT COMMUNITY LANDFILL COMPANY, INC., ROBERT PRUIM AND EDWARD PRUIM'S MOTION TO CANCEL HEARING** by electronic filing, by facsimile and 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 21<sup>ST</sup> day of **FEBRUARY, 2008**, addressed as follows:

Christopher Grant  
Environmental Bureau  
Assistant Attorney General  
69 W. Washington, 18th Floor  
Chicago, Illinois 60602  
Facsimile: (312) 814-2347

Bradley Halloran  
Hearing Officer  
Illinois Pollution Control Board  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
Facsimile: (312) 814-3669



One of the Attorneys for Respondents

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