

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.)

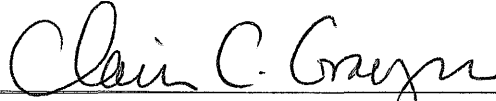
PCB No. 97-193
(Enforcement – Land)
(consolidated)

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 26, 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 FOR LEAVE TO FILE A REPLY**, 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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RESPONDENTS COMMUNITY LANDFILL COMPANY, INC., EDWARD PRUIM AND ROBERT PRUIM'S MOTION FOR LEAVE TO FILE A REPLY

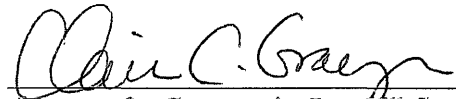
Respondents COMMUNITY LANDFILL COMPANY, INC., EDWARD PRUIM and ROBERT PRUIM, by and through their attorneys LaRose & Bosco, Ltd. and pursuant to 35 Ill. Adm. Code 101.500(e), hereby move Hearing Officer Bradley Halloran for leave to file a reply to their Motion to Cancel Hearing and in support thereof, state as follows:

1. Respondents filed a Motion to Cancel Hearing on February 21, 2008. Complainant filed a response on February 25, 2008.
2. Complainant's response contains several incorrect statements and several points that require clarification, so as to prevent material prejudice to Respondents.
3. Respondents' proposed reply is only 2.5 pages long and includes as an Exhibit a brief

supplemental affidavit to clarify Complainant's understanding of what exact work related activities are limited by having the use of only one arm and hand. A copy of the proposed Reply and Affidavit are attached as Exhibit A.

WHEREFORE, Respondents Community Landfill Company, Inc., Edward Pruim and Robert Pruim respectfully request that Hearing Officer Bradley Halloran grant their motion for leave to file a reply, pursuant to 35 Ill. Adm. Code 101.500(e).

Respectfully submitted,



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

Mark A. LaRose
Clarissa C. Grayson
LAROSE & BOSCO, LTD.
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RESPONDENTS COMMUNITY LANDFILL COMPANY, INC., EDWARD PRUIM AND ROBERT PRUIM'S REPLY TO 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 and 101.500(e), and upon leave having been granted by Hearing Officer Bradley Halloran to do so, hereby file its Reply to Motion to Cancel Hearing and in support thereof, state as follows:

1. First, Complainant argues that it will suffer prejudice if this hearing is rescheduled three months later. However, the standard for granting a motion to cancel hearing when the motion is filed no fewer than ten (10) days before the scheduled hearing date is whether the movant demonstrates that the request to cancel is not the result of the movant's lack of diligence. Only if the



movant files a motion less than ten (10) days before a scheduled hearing date is the movant required to demonstrate that it will suffer material prejudice if the hearing is not canceled.

The hearing in this matter is scheduled for April 7-10, 2008, more than a month from now. Respondents have demonstrated that its motion to cancel this hearing is not brought due to a lack of diligence, but as the result of an accident resulting in physical injury to an attorney whose involvement in the case has been extensive. Movant is not required to demonstrate prejudice.

2. Second, Complainant claims that Respondents' Motion and accompanying affidavit do not provide a "sufficient basis for cancellation". This is simply incorrect. The affidavit describes sufficiently and in detail an inability to use the left arm and hand for work activities resulting in a limitation to using the right hand only for work activities. In addition, Dr. Hartigan's letter, attached as an exhibit to the affidavit, sets forth in further detail the nature of these limitations. Use of one hand, by its very nature, involves limitations in a wide variety of work related activities, including typing, picking up files, papers, books, and other objects, using the telephone, etc. All of these are included in "being limited to the use of my right hand for work activities." While it would seem that these work activities would be obvious, a supplemental affidavit is attached setting forth the precise nature of these limitations. (See Supplemental Affidavit attached as Exh. 1.)

3. Third, while Complainant seeks to minimize the importance of Respondents' counsel participating in the hearing, at the same time it claims it cannot proceed without both of its attorneys' participation. Respondents' counsel was and is sympathetic to Complainant's counsel Jennifer Tomas's planned wedding and honeymoon, as well as her co-counsel, Christopher Grant's, planned vacation. Respondents' counsel (and her physician) has represented that she will be available after mid-July 2008 and will work to schedule the hearing as soon as possible. Cancellation of the April 7-

10, 2008 will not result in a significant delay in hearing of this matter. If Complainant is unable to proceed without two (2) attorneys available, it would seem only fair that the same should be applied to Respondents' counsel's availability.

4. Finally, Complainant incorrectly states that the first and only other motion to cancel hearing in these consolidated matters was filed one day after the Notice of Hearing was issued (Complainant Response, p.2). A Notice of Hearing was never issued in these consolidated matters..

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,



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

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Clarissa C. Grayson
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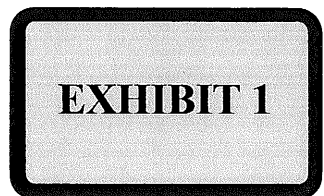
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SUPPLEMENTAL AFFIDAVIT OF CLARISSA CUTLER GRAYSON

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

1. This Supplemental Affidavit is presented to supplement the affidavit previously filed as Exh. A to Respondents' Motion to Cancel Hearing.

2. As stated therein, I am unable to use my left arm and hand for work activities. I am therefore limited to the use of my right arm and hand for work activities. The work activities that are limited to using my right arm and hand include typing, picking up and handling files, papers, books and other objects, reviewing documents, and using the telephone, as well as using any basic office



equipment, including staplers, staple removers, etc. Being limited to the use of my right hand makes these activities extremely cumbersome and burdensome, if not simply impossible to perform on a daily basis, but more so particularly in preparing for and participating in a four-day hearing, involving numerous counts and parties, as well as thousands of pages of documents.

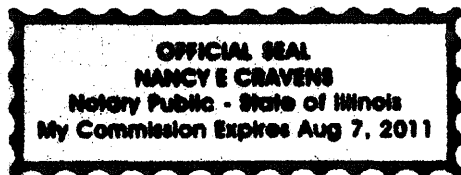
3. The information contained in this affidavit is based on my personal knowledge. If called upon to do so, I would competently testify to same.

Further, Affiant sayeth naught.


Clarissa Cutler Grayson

SUBSCRIBED AND SWORN TO
before me this 26 day of
February, 2008


NOTARY PUBLIC



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 FOR LEAVE TO FILE A REPLY** 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 26TH 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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