

ILLINOIS POLLUTION CONTROL BOARD
April 3, 2008

CITY OF CHICAGO DEPARTMENT OF ENVIRONMENT,)
)
)
Complainant,)
)
v.) AC 08-17
) (Administrative Citation)
)
CRYSTAL IL 98, L.L.C.,)
)
)
Respondent.)

ORDER OF THE BOARD (by G.T. Girard):

On February 21, 2008, the City of Chicago Department of Environment (City) timely filed an administrative citation against Crystal IL 98, L.L.C. (Crystal). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 108.202(c). The administrative citation concerns a property located at 1300 West 35th Street in Chicago, Cook County, and assigned Illinois Environmental Protection Agency (Agency) Site Code No. 0316615233. For the reasons below, the Board accepts Crystal's petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), an administrative citation is an expedited enforcement action brought before the Board seeking civil penalties that are fixed by statute. Administrative citations may be filed only by the Agency or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 4(r), 21(o), (p), 31.1, 42(b)(4), (4-5) (2006); 35 Ill. Adm. Code 108.

The City alleges that Crystal violated Sections 21(p)(1), (p)(4), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(4), (p)(7) (2006)) on December 27, 2007, by causing or allowing the open dumping of waste resulting in litter, the deposition of waste in standing water, and the deposition of general construction or demolition debris. The City asks the Board to impose a \$4,500 civil penalty on Crystal for the alleged violations.

The City served the administrative citation within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2006); *see also* 35 Ill. Adm. Code 108.202(b). On March 27, 2008, Crystal timely filed a petition. *See* 415 ILCS 5/31.1(d) (2006); 35 Ill. Adm. Code 108.204(b). Crystal's petition raises numerous grounds for contesting the citation, including that the alleged violations were not caused or allowed by Crystal and were the result of uncontrollable circumstances, and that the citation was not properly served. Petition at 1. The Board accepts the petition for hearing.

The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. *See* 35 Ill. Adm. Code

108.300; *see also* 415 ILCS 5/31.1(d)(2) (2006). By contesting the administrative citation, Crystal may have to pay the hearing costs of the Board and the City. *See* 415 ILCS 5/42(b)(4-5) (2006); 35 Ill. Adm. Code 108.500. A schedule of the Board's hearing costs is available from the Clerk of the Board and on the Board's Web site at www.ipcb.state.il.us. *See* 35 Ill. Adm. Code 108.504.

Crystal may withdraw the petition to contest the administrative citation at any time before the Board enters its final decision. If Crystal chooses to withdraw the petition, it must do so in writing, unless it does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Crystal withdraws its petition after the hearing starts, the Board will require Crystal to pay the hearing costs of the Board and the City if the City prevails. *See id.* at 108.500(c).

The City has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2006); 35 Ill. Adm. Code 108.400. If the Board finds that the City proved that Crystal violated Section 21(p), the Board will impose civil penalties on Crystal. The civil penalty for violating any provision of Section 21(p) is \$1,500 for each violation of each such provision, except that the penalty amount imposed will be \$3,000 for each violation of any provision of Section 21(p) that is a respondent's second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5) (2006); 35 Ill. Adm. Code 108.500. However, if the Board finds that Crystal "has shown that the violation resulted from uncontrollable circumstances, the Board shall adopt a final order which makes no finding of violation and which imposes no penalty." 415 ILCS 5/31.1(d)(2) (2006); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 3, 2008, by a vote of 4-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board