

ILLINOIS POLLUTION CONTROL BOARD

August 6, 2009

STROUD REALTY GROUP	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 10-6
	)	(Land)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondents.	)	

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

On July 16, 2009, the Board received a petition for review from Stroud Realty Group (Stroud), signed by Donald Schroud. The filing indicates that Stroud is appealing a decision by the Illinois Environmental Protection Agency (Agency) to charge Stroud \$7,901.29 in “Personal Services, Fringe Benefits and Indirect” costs. The date on the invoice is June 11, 2009. Stroud also attached two letters dated August 15, 2008 and August 26, 2008, from the Agency relating to a Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (2008) request. The letters are addressed to Raymond Derbas, identified in the petition as Stroud’s engineer.

The Board declines to accept this petition because the Board lacks authority to review Agency decisions with respect to FOIA requests. The Board is a creature of statute and has only the authority granted to the Board by the statute (Granite City Div. of Nat. Steel Co. v. PCB, 155 Ill. 2d 149, 171, 613 N.E.2d 719, 729 (1993); *see also* Bevis v. PCB, 289 Ill. App. 3d 432, 437, 681 N.E.2d 1096, 1099 (5th Dist. 1997); McHenry County Landfill, Inc. v. IEPA, 154 Ill. App. 3d 89, 95, 506 N.E.2d 372, 376 (2nd Dist. 1987)). The Environmental Protection Act grants the Board broad authority to review Agency decisions (*see e.g.* 415 ILCS 5/5(d) (2008)); however nothing in the Act gives the Board the authority to review the Agency’s decisions or costs associated with FOIA requests. The petition states no other potential basis for the Board to hear the appeal. Therefore, the Board declines to accept this petition and the docket is closed.

In addition the Board notes that another potential flaw in the petition, though not a fatal flaw is that the petition does not indicate whether or not Donald Schroud is an attorney. *See* Petition of Maximum Investments, LLC for an Adjusted Standard From 35 Ill. Adm. Code 740.210(A)(3) for Stoney Creek Landfill in Palos Hills, Illinois, AS 09-2 (Dec, 18, 2008). The Board’s rules require that any person other than an individual must appear through an attorney. *See* 35 Ill. Adm. Code 101.400 (a).

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2006); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 6, 2009, by a vote of 5-0.

A handwritten signature in cursive script that reads "John T. Therriault". The signature is written in black ink and is positioned above a horizontal line.

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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board