

ILLINOIS POLLUTION CONTROL BOARD
April 15, 2010

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. LISA MADIGAN, Attorney)
General of the State of Illinois,)
)
Complainant,) PCB 09-39
) (Enforcement - Air)
v.)
)
AL-ALGONQUIN APARTMENTS, LLC,)
an Indiana limited liability company;)
ALGONQUIN APARTMENTS, LLC, an)
Indiana limited liability company; and)
ALGONQUIN MANAGEMENT, LLC, a)
Delaware limited liability company,)
)
Respondents.)

ORDER OF THE BOARD (by G.L. Blankenship):

On December 15, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a six-count complaint against Al-Algonquin Apartments, LLC, an Indiana limited liability company; Algonquin Apartments, LLC, an Indiana limited liability company, and Algonquin Management, LLC, a Delaware limited liability company (collectively herein Respondents). *See* 415 ILCS 5/31(c)(1) (2008)¹; 35 Ill. Adm. Code 103.204. The complaint concerns a residential apartment building located at 1605 East 50th Street in Chicago, Cook County. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that Respondents violated Sections 9(a) and 9.1(d)(1) of the Act (415 ILCS 9(a), 9.1(d)(1) (2008)), Sections 61.145(b), (c)(3), (c)(6)(i), and (c)(8), and 61.150(b) of the federal regulations on National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos (40 C.F.R. §§61.145(b), (c)(3), (c)(6)(i), (c)(8), 61.150(b)) and Section 201.141 of the Board's air pollution regulations (35 Ill. Adm. Code 201.141).² The

¹ All citations to the Act will be to the 2008 compiled statutes because the provisions at issue have not been substantively amended in the 2008 compiled statutes.

² While the Board generally does not have jurisdiction over USEPA rules, Section 9(b) of the Act provides that federal NESHAPs "are applicable to the state and enforceable under the Act." 415 ILCS 5/9(b) (2008). Pursuant to Section 112(b)(1) of the Clean Air Act, 42 U.S.C. 7412(b)(1) (2007), the Administrator of the U.S. Environmental Protection Agency lists asbestos

People further allege that Respondents violated these provisions by: (1) failing to adequately wet and keep wet all regulated asbestos-containing material (RACM) removed during renovation operations until such asbestos-containing waste material were collected and contained in leak-tight wrapping in preparation for disposal, (2) failing to provide notice of a renovation activity, (3) failing to have a trained foreman or representative present during the disturbance of regulated asbestos containing materials, (4) failing to maintain adequate containment of RACM, thereby causing and allowing the release of asbestos fibers into the environment, and (5) failing to deposit all asbestos-containing waste material within a site permitted to accept such waste as soon as practicable.

On April 2, 2010, the People and Respondents filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Respondents neither admit nor deny the alleged violations and agree to pay a civil penalty of forty-three thousand dollars (\$43,000.00).

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2006); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

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 15, 2010, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board

as a hazardous air pollutant. Asbestos is a known human carcinogen for which there is no known safe level of exposure.