

ILLINOIS POLLUTION CONTROL BOARD
November 3, 2011

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 12-4
)	(IEPA No.248-11-AC)
GARRISON PROPERTIES, INC., AND)	(Administrative Citation)
RIVER CITY ROOFING COMPANY, INC.,)	
)	
Respondents.)	

ORDER OF THE BOARD (by T.A. Holbrook):

On September 20, 2011, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Garrison Properties, Inc. (Garrison Properties) and River City Roofing Company, Inc. (River City). *See* 415 ILCS 5/31.1(c) (2010); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns an open dump site owned by Garrison Properties and operated by River City located at 7402 South Adams Street, Bartonville, Peoria County. The property is commonly known to the Agency as the “River City Roofing” site and is designated with Site Code No. 1430055075. For the reasons below, the Board accepts respondents’ petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2010)), 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. *See* 415 ILCS 5/21(o), 21(p), 22.51, 22.51a, 31.1(c), 42(b)(4), 42(b)(4-5), 55(k) (2010); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that, on August 5, 2011, Garrison Properties and River City violated the following statutory provisions in the manner described: Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2010)) by causing or allowing open dumping of waste in a manner resulting in litter, Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2010)) by causing or allowing open dumping of waste in a manner resulting in open burning, and Section 21(p)(7) of the Act (415 ILCS 5/21(p)(7) (2010)) by causing or allowing open dumping of waste in a manner resulting in deposition of general construction or demolition debris, or clean construction or demolition debris. The Agency asks the Board to impose the statutory \$1,500.00 civil penalty per violation on Garrison Properties and River City, for a total civil penalty of \$4,500.00.

As required, the Agency served the administrative citation on Garrison Properties and River City within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2010); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative

citation was due by October 21, 2011. On October 24, 2011, Garrison Properties and River City timely filed a petition (Pet.). *See* 415 ILCS 5/31.1(d) (2010); 35 Ill. Adm. Code 101.300(b)(2), 108.204(b). Garrison Properties and River City state that they did not cause or allow the violations alleged by the Agency and allege that the alleged violations were the result of uncontrollable circumstances. Pet. at 1; *see* 35 Ill. Adm. Code 108.206.

The Board accepts respondents' petition and 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* 415 ILCS 5/31.1(d)(2) (2010); 35 Ill. Adm. Code 108.300. By contesting the administrative citation, Garrison Properties and River City may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2010); 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.

Garrison Properties and River City may withdraw their petition to contest the administrative citation at any time before the Board enters its final decision. If Garrison Properties and River City choose to withdraw their petition, they must do so in writing, unless they do so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Garrison Properties and River City withdraw their petition after the hearing starts, the Board will require Garrison Properties and River City to pay the hearing costs of the Board and the Agency. *See id.* at 108.500(c).

Garrison Properties and River City have the burden of proof at the hearing. *See* 415 ILCS 5/31.1(d)(2) (2010); 35 Ill. Adm. Code 108.400. If the Board finds that Garrison Properties and River City violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Act, the Board will impose civil penalties on Garrison Properties and River City. The civil penalty for violating any provision of Section 21(p) is \$1,500 for each violation, except that the penalty amount is \$3,000 for each violation that is the respondents' second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5) (2010); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that Garrison Properties and River City have "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) (2010); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 3, 2011 by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board