

ILLINOIS POLLUTION CONTROL BOARD
October 30, 1980

PETER A. ZAJAC,)
)
 Complainant,)
)
 v.) PCB 79-10
)
 CHICAGO TRANSIT AUTHORITY, a)
 Municipal Corporation,)
)
 Respondent.)

COMPLAINANT PETER A. ZAJAC APPEARED PRO SE.

MS. LORETTA WEBER APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by I. Goodman):

This matter is before the Board upon a citizen enforcement action filed December 20, 1978. An amended complaint was filed and the Board authorized a hearing on February 15, 1979; hearing was held on January 22, 1980. The Board has received considerable public comment.

In the complaint Mr. Peter A. Zajac (Zajac) alleges violations of Rule 102 of the Board's noise pollution regulations (Chapter 8) and of Section 24 of the Illinois Environmental Protection Act (Act). Section 24 prohibits any emission of noise which "unreasonably interferes with the enjoyment of life or with any lawful business or activity, so as to violate any regulation or standard adopted by the Board under [the] Act." Rule 102 prohibits causing or allowing sound emissions beyond the boundaries of one's property (realty or personalty) so as to cause noise pollution or so as to violate the Board's noise regulations. Zajac appeared pro se, and was aware that he was entitled to have legal representation (R.10,20,26). The hearing officer maintained fair and orderly proceedings throughout, while allowing Zajac great latitude in the presentation of his case. The Board must, nevertheless, weigh the evidence presented to it; the burden is on a complainant to show that a respondent has violated a provision of the Act or a rule or regulation of the Board. The Board finds that Zajac failed to meet that burden in this case.

As a matter of fact, Zajac produced little or no evidence at the hearing. It is difficult for the Board to make a finding that noise pollution has occurred based upon testimony concerning personal irritation from sounds produced by another. It is well known that noise is a highly subjective perception. While the sound of rock and roll music, or a Beethoven symphony, may be pleasing to the ear of one person, the same sound may be perceived by another as an irritating noise.

Although the Board did receive considerable public comment concerning this case, Zajac was the only person to testify for Complainant's case at the hearing. Although most of the public comment concerned allegations of structural damage to buildings, the Chicago Transit Authority presented an engineering report at hearing purporting to show that no structural damage could occur from vibrations caused by its trains. No technical information concerning sound levels was presented at the hearing.

While the Board is sensitive to noise problems in the environment, it may not make a finding of pollution and violation of the Act or the Board's Rule 102 on so little evidence. The Board must therefore dismiss the complaint herein.

This Opinion constitutes the findings of fact and the conclusions of law of the Board in this matter.

ORDER

It is the Order of the Pollution Control Board that PCB 79-10 be and is hereby dismissed.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 30th day of October, 1980 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board