

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	AC
)	
v.)	(IEPA NO. 253-06-AC)
)	
DENNIS BALLINGER,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Michelle M. Ryan
Special Assistant Attorney
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Illinois Pollution Control Board
Clerk's Office
State of Illinois Center
100 West Randolph
Suite 11-500
Chicago, IL 60601

PLEASE TAKE NOTICE that on October 12, 2006, Respondent filed with the Clerk of the Illinois Pollution Control Board of the State of Illinois an original and nine (9) copies of an Entry of Appearance and a Petition to Contest Illinois Environmental Protection Agency's Administrative Citation.

Date: October 12, 2006

Respectfully submitted,

DENNIS BALLINGER

By: Charles Y. Davis
One of His Attorneys

BROWN, HAY & STEPHENS, LLP
 Claire A. Manning
 Registration No. 3124724
 Charles Y. Davis
 Registration No. 6286010
 205 S. Fifth Street, Suite 700
 P.O. Box 2459
 Springfield, IL 62705-2459
 (217) 544-8491

CERTIFICATE OF SERVICE

I, on oath state that I have served the attached a Petition for Review of Illinois Environmental Protection Administrative Citation by placing copies in an envelope addressed to:

Michelle M. Ryan
Special Assistant Attorney
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Illinois Pollution Control Board
Clerk's Office
State of Illinois Center
100 West Randolph
Suite 11-500
Chicago, IL 60601

from Brown, Hay & Stephens, LLP, 205 S. Fifth Street, Ste. 700, Springfield, Illinois, before the hour of 5:00 p.m. on this 12th day of October, 2006.

Charles Y. Davis

CERTIFICATE OF SERVICE

I, on oath state that I have served the attached Entry of Appearance by placing copies in an envelope addressed to:

Michelle M. Ryan
Special Assistant Attorney
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Illinois Pollution Control Board
Clerk's Office
State of Illinois Center
100 West Randolph
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Chicago, IL 60601

from Brown, Hay & Stephens, LLP, 205 S. Fifth Street, Ste. 700, Springfield, Illinois, before the hour of 5:00 p.m. on this 12th day of October, 2006.

Charles Y. Davis

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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ILLINOIS ENVIRONMENTAL)	
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v.)	(IEPA NO. 253-06-AC)
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DENNIS BALLINGER,)	
)	
Respondent.)	

PETITION TO CONTEST
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S
ADMINISTRATIVE CITATION

NOW COMES, Respondent, Dennis Ballinger, by and through his attorneys, Brown, Hay & Stephens, LLP, Claire A. Manning and Charles Y. Davis, pursuant to Section 31.1 of the Illinois Environmental Protection Act (415 ILCS 5/31.1) (the "Act"), and as and for his Petition to Contest Illinois Environmental Protection Agency's Administrative Citation, states as follows:

1. Complainant, the Illinois Environmental Protection Agency (the "Agency") inspected the property located at 527 N. High Street, Paris, Edgar County, Illinois, (the "Property") on March 20, 2006 and on August 8, 2006. *See Inspection Report attached to the Agency's Administrative Citation.*
2. The Agency filed an Administrative Citation for alleged open dumping on the Property against Respondent on September 18, 2006.
3. At all times relevant to the Agency's Administrative Citation, Respondent did not own the Property where the alleged violations of the Act occurred.

4. Respondent obtained title to the Property by Tax Deed, at a public sale of the Property for the non-payment of taxes, on December 6, 2001. Tax Deed is attached hereto and incorporated herein as Exhibit A.

5. Respondent sold and conveyed the Property to Edwin Farr on or before January 27, 2006. Quit Claim Deed, evidencing the conveyance of the Property, is attached hereto and incorporated herein as Exhibit B.

6. Respondent did not own the Property at the time of either of the two inspections of the Property, nor has he in any way caused or allowed any violation of the Illinois Environmental Protection Act.

7. Section 108.206 of the Board's rules recognizes that a proper defense to an Administrative Citation is that it has been filed against a person who does not own the property at issue; in fact, it subjects the matter to dismissal. 35 IL. Admin. Code 108.206.

8. As a result of the foregoing, the Administrative Citation was improperly issued against Respondent, and should be dismissed.

WHEREFORE, Respondent, Dennis Ballinger, respectively requests that the Board enter an Order dismissing the Administrative Citation.

Respectfully submitted,

DENNIS BALLINGER

By: Charles Y. Davis
One of His Attorneys

BROWN, HAY & STEPHENS, LLP

Claire A. Manning

Registration No. 3124724

Charles Y. Davis

Registration No. 6286010

205 S. Fifth Street, Suite 700

P.O. Box 2459

Springfield, IL 62705-2459

(217) 544-8491

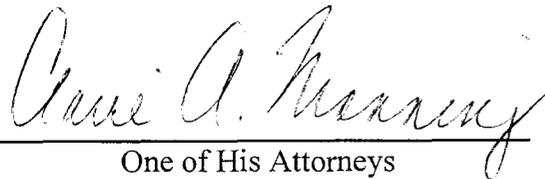
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	AC
)	
v.)	(IEPA NO. 253-06-AC)
)	
DENNIS BALLINGER,)	
)	
Respondent.)	

ENTRY OF APPEARANCE

NOW COMES CLAIRE A. MANNING, of the law firm of Brown, Hay & Stephens, LLP, and enters their appearance for Defendant, DENNIS BALLINGER, in the above referenced cause.

By: 
One of His Attorneys

BROWN, HAY & STEPHENS, LLP
Claire A. Manning
Registration No. 3124724
205 S. Fifth Street, Suite 700
P.O. Box 2459
Springfield, IL 62705-2459
(217) 544-8491

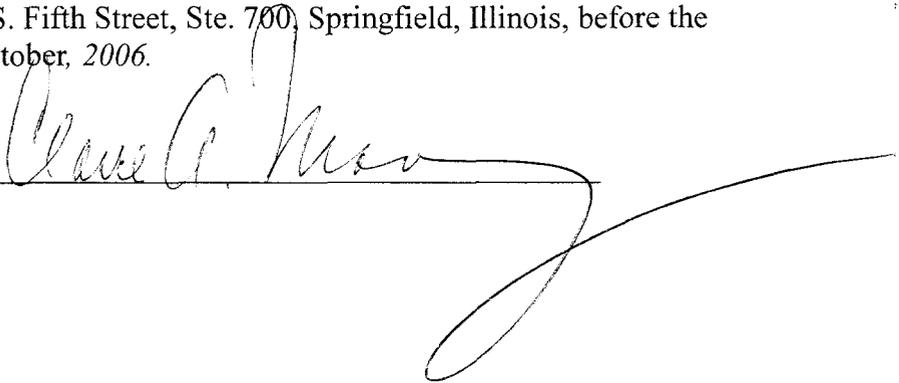
CERTIFICATE OF SERVICE

I, on oath state that I have served the attached Entry of Appearance by placing copies in an envelope addressed to:

**Michelle M. Ryan
Special Assistant Attorney
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276**

**Illinois Pollution Control Board
Clerk's Office
State of Illinois Center
100 West Randolph
Suite 11-500
Chicago, IL 60601**

from Brown, Hay & Stephens, LLP, 205 S. Fifth Street, Ste. 700, Springfield, Illinois, before the hour of 5:00 p.m. on this ~~12th~~ ^{12th} day of October, 2006.


A handwritten signature in cursive script, appearing to read "Claire A. Russo", is written over a horizontal line. The signature is fluid and extends to the right, ending in a long, sweeping tail.

CERTIFICATE OF SERVICE

I, on oath state that I have served the attached Petition to Contest the Illinois Environmental Protection Agency's Administrative Citation by placing copies in an envelope addressed to:

Michelle M. Ryan
Special Assistant Attorney
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Illinois Pollution Control Board
Clerk's Office
State of Illinois Center
100 West Randolph
Suite 11-500
Chicago, IL 60601

from Brown, Hay & Stephens, LLP, 205 S. Fifth Street, Ste. 700, Springfield, Illinois, before the hour of 5:00 p.m. on this 12th day of October, 2006.

Charles Y. Davis

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	AC
)	
v.)	(IEPA NO. 253-06-AC)
)	
DENNIS BALLINGER,)	
)	
Respondent.)	

ENTRY OF APPEARANCE

NOW COMES CHARLES Y. DAVIS, of the law firm of Brown, Hay & Stephens, LLP,
and enters their appearance for Defendant, DENNIS BALLINGER, in the above referenced
cause.

By: Charles Y. Davis
One of His Attorneys

BROWN, HAY & STEPHENS, LLP
Charles Y. Davis
Registration No. 6286010
205 S. Fifth Street, Suite 700
P.O. Box 2459
Springfield, IL 62705-2459
(217) 544-8491

CERTIFICATE OF SERVICE

I, on oath state that I have served the attached Entry of Appearance by placing copies in an envelope addressed to:

**Michelle M. Ryan
Special Assistant Attorney
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276**

**Illinois Pollution Control Board
Clerk's Office
State of Illinois Center
100 West Randolph
Suite 11-500
Chicago, IL 60601**

from Brown, Hay & Stephens, LLP, 205 S. Fifth Street, Ste. 700, Springfield, Illinois, before the hour of 5:00 p.m. on this 12th day of October, 2006.

Charles Y. Davis

TAX DEED

05-0003525 11/18/2005 12:06P FILED RHSPS:010
Rebecca R. Kraemer, Edgar County Recorder

Return Deed &
Mail Tax Statement To:

Dennis D. Ballinger
P. O. Box 1452
Decatur, IL 62525

01-TX-1(13)
Certificate No.
000057

WHEREAS, At a public sale of Real Estate for the non-payment of taxes, made in the County aforesaid, on December 6, 2001 the following described Real Estate was sold, to wit:

Lot 4 of the County Clerk's Subdivision of Out Lot No. 51 to the City of Paris, as shown by Plat of said Subdivision in Plat Book 2, Page 480 of the records of Edgar County, Illinois, situated in Edgar County, Illinois.

PARCEL INDEX NUMBER: 09-18-01-227-006

AND WHEREAS, the same not having been redeemed from said sale, and it appearing that the holder of the Certificate of Purchase of said Real Estate has complied with the laws of the State of Illinois necessary to entitle him to a Deed of said Real Estate:

NOW, THEREFORE, Know Ye, That I, REBECCA R. KRAEMER, County Clerk of said County of EDGAR in consideration of the premises and by virtue of the statutes of the State of Illinois in such cases provided, do hereby grant and convey unto:

DENNIS D. BALLINGER
119 West William Street, Suite 300
Decatur, Illinois 62525

his heirs and assigns forever, the said Real Estate hereinbefore described.

DOCUMENTARY STAMP
"Exempt under provisions of 35ILCS,
200/31-45 (f).

DATED: November 18, 2005.

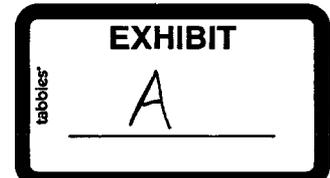
11/18/05 [Signature]
Date Buyer, Seller or Representative

Rebecca R. Kraemer
REBECCA R. KRAEMER
County Clerk

35 ILCS 200/22-85 - Unless the holder of the Certificate for Real Estate purchased at any tax sale under this act takes out the deed as entitled by law and files the same for record within one year from and after the time for redemption expires, the said certificate or deed, and the sale on which it is based, shall, from and after the expiration of such one year, be absolutely null. If the holder of such certificate shall be prevented from obtaining such deed by injunction or order of any court, or by the refusal of the clerk to issue same, the time he is so prevented shall be excluded from the computation of such time.

LAW OF 1909 - Tax deeds shall not be of any force or effect until after the same have been filed for record in the office of the Recorder of Deeds

This Instrument Prepared By Dennis D. Ballinger



QUIT CLAIM DEED
Return Deed & Mail Tax Statement To: Edwin Farr 200 Reichman Joliet, IL 60433

06-0000390 02/07/2006 10:42A FILED RHSPS:\$10
Rebecca R. Kraemer, Edgar County Recorder

	Name of Grantor		Post Office Box 1452 Decatur, IL 62525
Dennis D. Ballinger			

for and in consideration of One Dollar and other good and valuable consideration in hand paid, conveys and quit claims to:

Edwin Farr

The following real estate described as;

Lot 4 of the County Clerk's Subdivision of Out Lot No. 51 to the City of Paris, as shown by Plat of said Subdivision in Plat Book 2, Page 480 of the records of Edgar County, Illinois, situated in Edgar County, Illinois.

PARCEL INDEX NUMBER: 09-18-01-227-006

which is situated in the County of Edgar in the State of Illinois, hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of this State.

Grantor hereby certifies that he nor his wife have ever occupied the same and therefore have no interest therein under and by virtue of the Homestead Exemption Laws of the State of Illinois.

Dated this JAN 27, 2006

DOCUMENTARY STAMP

Exempt under provisions of
35 ILCS 200/31-45 (E).

01/27/06 by J V K
Date Buyer, Seller or Representative

Dennis D. Ballinger
Dennis D. Ballinger

STATE OF ILLINOIS)
)SS
COUNTY OF MACON)

The foregoing instrument was acknowledged before me this 27 day of Jan 2006 by Dennis D. Ballinger for the purposes of therein set forth, including the release and waiver of the right of homestead.



Heather S. Hunter
Notary Public

This Instrument Drafted by Dennis D. Ballinger, Post Office Box 1452, Decatur, Illinois 62525

