

ILLINOIS POLLUTION CONTROL BOARD  
June 21, 2007

LAWRENCE REED, )  
)  
Complainant, )  
)  
v. ) PCB 07-109  
) (Citizens Enforcement - Noise)  
MARK HOWARD, )  
)  
Respondent. )

ORDER OF THE BOARD (by N.J. Melas):

On May 8, 2007, Mr. Lawrence Reed filed a citizens noise complaint (Comp.) against Mr. Mark Howard. *See* 415 ILCS 5/31(d) (2006); 35 Ill. Adm. Code 103.204. Mr. Reed alleges that Mr. Howard violated Section 24 of the Environmental Protection Act (Act) (415 ILCS 5/24 (2006)). Mr. Reed further alleges that Mr. Howard violated these provisions by creating home construction and landscaping noise. The complaint concerns Mr. Reed's property located at 211 North Winston Drive, Palatine, Cook County.

Section 31(d)(1) of the Act allows any person to file a complaint with the Board. 415 ILCS 5/31(d)(1) (2006). Section 31(d)(1) further provides that "[u]nless the Board determines that such complaint is duplicative or frivolous, it shall schedule a hearing." *Id.*; *see also* 35 Ill. Adm. Code 103.212(a). A complaint is duplicative if it is "identical or substantially similar to one brought before the Board or another forum." 35 Ill. Adm. Code 101.202. A complaint is frivolous if it requests "relief that the Board does not have the authority to grant" or "fails to state a cause of action upon which the Board can grant relief." *Id.* Within 30 days after being served with a complaint, a respondent may file a motion alleging that the complaint is duplicative or frivolous. 35 Ill. Adm. Code 103.212(b). The Board has not received such a motion from Mr. Howard. However, for the reasons stated below, the Board today reserves ruling on whether Mr. Reed's complaint is frivolous or duplicative.

The Board's procedural rules provide that "[p]roof of service of initial filings must be filed with the Board upon completion of service." 35 Ill. Adm. Code 101.304(b). The rules further provide that "[p]roof of proper service is the responsibility of the party filing and serving the document." 35 Ill. Adm. Code 101.304(d). To date, the Board has not received proof that Mr. Reed has served Mr. Howard with a copy of the complaint.

Accordingly, the Board directs Mr. Reed to file proof of service by July 23, 2007, which is the first business day after the 30th day from the date of this order. If Mr. Reed fails to file proof of service on or before that date, the Board may dismiss this proceeding. *See* 35 Ill. Adm. Code 101.304(d).

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 June 21, 2007, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board