

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**RECEIVED**  
CLERK'S OFFICE

JUL 09 2009

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
 )  
PETITION OF MAXIMUM )  
INVESTMENTS, LLC FOR A RULE )  
OF GENERAL APPLICABILITY )  
35 Ill. Adm. Code 618 )  
 )

R09-22  
Rulemaking-Land

**NOTICE**

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601  
**(Via First Class Mail)**

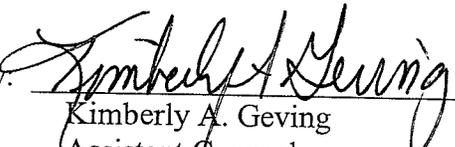
Bill Richardson  
Chief Legal Counsel  
Illinois Dept. of Natural Resources  
One Natural Resources Way  
Springfield, Illinois 62702-1271  
**(Via First Class Mail)**

Matt Dunn  
Environmental Bureau Chief  
Office of the Attorney General  
James R. Thompson Center  
100 W. Randolph, 12<sup>th</sup> Floor  
Chicago, Illinois 60601  
**(Via First Class Mail)**

Richard Rosenbaum, Manager  
Maximum Investments, LLC  
9437 Karlov  
Skokie, Illinois 60076  
**(Via First Class Mail)**

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the Illinois EPA's Motion to Dismiss, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Kimberly A. Geving  
Assistant Counsel  
Division of Legal Counsel

DATE: July 7, 2009

1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217)782-5544

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STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF:	)	
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PETITION OF MAXIMUM	)	R09-22
INVESTMENTS, LLC FOR A RULE OF	)	(Rulemaking-Land)
GENERAL APPLICABILITY	)	
(35 Ill. Adm. Code 618)	)	

**MOTION TO DISMISS**

NOW COMES the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, Kimberly A. Geving, and, pursuant to 35 Ill. Adm. Code 102.212(a) and (d) and 35 Ill. Adm. Code 101.500, hereby respectfully moves the Illinois Pollution Control Board (“Board”) to dismiss the above action. In support of its motion, the Illinois EPA states as follows:

1. On June 22, 2009, Richard Rosenbaum, Manager of Maximum Investments, LLC (“Petitioner”) filed a Petition for a Rule of General Applicability.
2. Petitioner’s filing is improper in that it requests the Board to adopt a rule of general applicability to define “review and evaluation services” under Section 22.2b(a)(3) of the Illinois Environmental Protection Act (“Act”)[ 415 ILCS 5/22.2b(a)(3)]. Under Section 22.2b(e) of the Act, it is the Illinois EPA that has the authority to adopt any such regulations, not the Board.
3. In the alternative, even if the Board had the authority to adopt such a regulation, the Petitioner’s Petition fails to satisfy the content requirements for Board regulatory proposals under 35 Ill. Adm. Code 102.202. First of all, Petitioner’s proposal is not drafted in accordance with 1 Ill. Adm. Code 100.Subpart C. Second, the Petitioner’s proposal is not accompanied by a statement of reasons that includes all the requirements

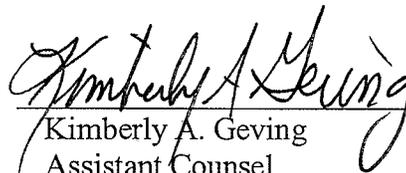
of 35 Ill. Adm. Code 101.202(b). Third, the Petitioner's proposal is not accompanied by a petition signed by at least 200 persons, as required by Section 28 of the Act and 35 Ill. Adm. Code 102.410(b). Fourth, the Petitioner's proposal is not accompanied by any justification for the inapplicability or unavailability of materials incorporated by reference or published studies or research reports used in developing the rule, as is required by 35 Ill. Adm. Code 102.202(k). Petitioner simply stated "None."

WHEREFORE, for the reasons stated above, the Illinois EPA respectfully requests that the Board grant this Motion to Dismiss.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

BY:

  
Kimberly A. Geving  
Assistant Counsel  
Division of Legal Counsel

DATED: July 7, 2009

1021 N. Grand Ave. East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

STATE OF ILLINOIS )  
 )  
COUNTY OF SANGAMON )

**PROOF OF SERVICE**

I, the undersigned, on oath state that I have served the attached Illinois EPA's  
Motion to Dismiss upon the persons to whom they are directed, by placing a copy of each  
in an envelope addressed to:

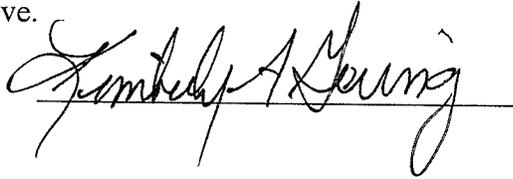
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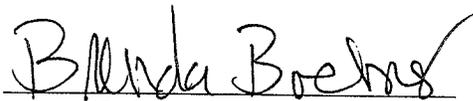
Richard Rosenbaum, Manager  
Maximum Investments, LLC  
9437 Karlov  
Skokie, Illinois 60076

and mailing them (First Class Mail) from Springfield, Illinois on July 7, 2009, with  
sufficient postage affixed as indicated above.



SUBSCRIBED AND SWORN TO BEFORE ME

This 7th day of July, 2009.

  
Notary Public