

ILLINOIS POLLUTION CONTROL BOARD
July 19, 1973

MARC BARON,)
)
 Petitioner,)
)
 v.) PCB 73-195
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by Mr. Seaman):

On May 8, 1973, Petitioners, Marc and Judith Baron, residents of Highland Park, County of Lake, Illinois, filed with this Board a Petition requesting "rehearing and reconsideration by the Board of its April 17, 1973 decision." This cause will be decided as an original Petition.

Petitioner requests a variance from Order #7 of League of Women Voters v. North Shore Sanitary District, PCB 70-7, 12, 13 and 14, to obtain a connection for a single family residence to an existing sewer, tributary to the Clavey Road sewage treatment plant.

On September 14, 1972, Petitioners acquired property in Highland Park, Illinois, with intent to build a home thereon. Previously, on August 21, 1972, Petitioners were allegedly informed by a named employee of the North Shore Sanitary District that permits for access to the sewer system were available. In reliance upon the availability of such permits, Petitioners purchased the property and made further expenditures to a building contractor for plans, specifications, bids, etc. When Petitioners eventually made application for the permit, they were informed that the allocation for their locale had been exhausted. Petitioners allege a loss in excess of \$12,000.

Although the fact situations encountered in the instant cause and that of Bereskin v. Environmental Protection Agency (PCB73-143) are dissimilar, this Board is of the opinion that a similar decision is appropriate. In this regard, Mr. Dumelle has registered his dissent.

We are informed that the construction of improvements to the North Shore Sanitary District will probably be completed so that the effluent standards will be met by September, 1973. Since the North Shore Sanitary District is apparently within 2 or 3 months of compliance we believe it is appropriate to authorize the construction of those single-family dwellings which will not immediately be a burden upon the sewer system. We allow the variance but only subject to the following condition:

No connection shall be made to the subject sewer until the additional capacity of the North Shore Sanitary District following the completion of construction currently underway is sufficient to meet the effluent standards of the Pollution Control Board.

With this Order construction of the residence may take place concurrently with the construction of sewer system improvements, but Petitioners shall not add to the load on this sewer during the time it is overloaded.

ORDER

It is ordered that:

Petitioners are granted a variance from our Order prohibiting additional sewer connections to the North Shore Sanitary District. This variance is subject to the following condition:

No connection shall be made to the subject sewer until the additional capacity of the North Shore Sanitary District following the completion of construction currently underway is sufficient to meet the effluent standards of the Pollution Control Board.

Mr. Dumelle dissents.

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 17th day of _____, 1973, by a vote of 3 to 1.