ILLINOIS POLLUTION CONTROL BOARD November 1, 1973

MRS. ADELE ROACH)	
ν.)))	PCB 73-324
ENVIRONMENTAL PROTECTION AGENCY)	

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

On August 3, 1973, Mrs. Roach filed a petition for variance from Order #7 of League of Women Voters v. North Shore Sanitary District, PCB 70-7, 12 and 14, to allow a future sower connection to a presently unimproved lot located in Lake Forest, Illinois. The Agency filed a recommendation to deny the variance on September 18, 1973. No hearing was held.

Mrs. Reach stated that she and her husband own lot #69 in Unit One of the Villa Turicum Subdivision of Lake Forest. They have allegedly tried to sell the property since they moved out of the area over three years ago. She states that her "husband is at Michael Reese Hospital suffering from a nervous breakdown". She alleges that they need the income from the \$37,000 they have tied up in the lot. She further cites the annual burden of the real estate taxes totalling \$800.00 on the one acre lot.

A recent letter from John T. Bernbom, Attorney, Enforcement Section, Division of Water Pollution Control of the Agency, which is on file with the Board, states that the Clavey Road plant is capable of 10 MGD capacity with full secondary treatment capacity for 18 MGD expected by March 1, 1974.

Any development on Petitioner's land would probably not be on line until after March 1, 1974. Only once in the previous 12 months has the Clavey Road Treatment Plant averaged in excess of 10 MGD (10.41 MGD, September 19, 1972). Any additional load from Petitioner's property would cause little, if any, environmental damage.

The Board finds that Petitioner has shown a hardship exists which would warrant the granting of a variance. However, a problem exists which resulted in the Agency recommending against the granting of the variance. The Board is asked to issue a variance that will run with the land.

The Agency has taken the position that a successor in interest to the Petitioner's land would not be a successor in interest in the Petitioner's hardship. Therefore, the sale of the unimproved lot by the Petitioners holding a variance, would terminate the variance. The purchaser takes only the land, not the rights incident to the variance as a variance is not a saleable commodity.

While the Board appreciates the Agency's reasoning, it must never the less make the final decision. Petitioner is suffering hardship and has asked the Board to grant a variance to relieve the hardship. The only action that will relieve the hardship is a variance that will run with the land so as to insure a purchaser that he may connect his sewer.

ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that variance is hereby granted to petitioner from the Board's Order in League of Women Voters v. North Shore Sanitary District, PCB 70-7, 12, and 14, to allow a future sewer connection to the presently unimproved lot.

IT IS SO ORDERED.

Mr. Odell and Mr. Seaman dissent.

I, CHristan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the day of November, 1973 by a vote of

Illinois Pollution Control Board