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STATE OF ILLINOIS
Pollution Control Board

CITIZEN'S ENFORCEMENT CASE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MARK LILLY,)
)
)
Complainant,)
vs.)
)
CITY OF ROCK FALLS, ILLINOIS,)
)
Respondent.)

No. PCB 12-16

ORIGINAL

**RESPONDENT'S MOTION REQUESTING THAT
IPCB NOT ACCEPT COMPLAINT FOR HEARING**

Respondent, the CITY OF ROCK FALLS, by Ward, Murray, Pace & Johnson, P.C., its attorneys, respectfully requests that the Illinois Pollution Control Board not accept the complaint filed in this matter for hearing on the basis that the complaint is frivolous because it seeks relief which IPCB does not have the authority to grant, and further fails to state a cause of action upon which IPCB can grant relief. In support of this request, Respondent states:

1. The complaint does not allege that the City of Rock Falls is violating any relevant provision of the Illinois Environmental Protection Act or regulations promulgated thereunder. Rather, the complaint alleges that the City's "policies" permit its citizens to violate the Act or regulations, and that the City is "effectively circumventing regulations designed to protect the environment and the health and safety of its citizens." The IPCB does not have authority to invalidate a municipality's ordinances, or to require a municipality to enforce its ordinances, or to adopt or enforce any specific policies, rules, or regulations.

2. Moreover, to the extent complainant complains of open burning of landscape waste, and recreational fires, neither the Act nor the regulations promulgated thereunder prohibit the City from allowing its citizens to burn landscape waste generated from the citizen's land, or


to utilize recreational fires. See 415 ILCS 5/9; *City of Lake Forest v. Pollution Control Board*, 146 Ill. App.3d 848, 100 Ill. Dec. 301 (2d Dist. 1986).

WHEREFORE, Respondent respectfully requests that the Board refuse to accept the formal complaint for hearing on the basis that it is frivolous.

Respectfully submitted,

CITY OF ROCK FALLS, Respondent

By WARD, MURRAY, PACE & JOHNSON, P.C.,
Its Attorneys

By 
Richard A. Palmer

WARD, MURRAY, PACE & JOHNSON, P.C.
Attorneys for Respondent
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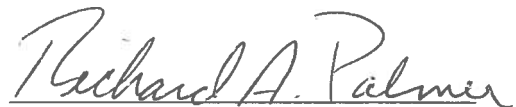
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STATE OF ILLINOIS
Pollution Control Board

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the parties or the attorneys of record of all parties to the above cause by enclosing the same in an envelope addressed to such parties or attorneys at their business address as disclosed by the pleadings of record herein, with postage fully prepaid by depositing said envelope in a U.S. Post office Mail Box in Sterling, Illinois on August 10, 2011 at 5:00 p.m.

The address or addresses appearing on the envelope or envelopes are shown following the signature.


Richard A. Palmer

Mr. Mark Lilly
508 Culver Street
Rock Falls, IL 61071

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FILING OF DOCUMENTS

Date: August 10, 2011

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Re: Mark Lilly v. City of Rock Falls – No. PCB 12-16

STATE OF ILLINOIS
Pollution Control Board

The following document is enclosed for filing with your office:

**Respondent's Motion Requesting That IPCB Accept Complaint for Hearing
(original and 9 copies)**

- Please return filed stamped copies to our office.
- A self addressed stamped envelope is enclosed for your convenience.
- Check enclosed for your fees in the amount of \$

ORIGINAL

TO: Pollution Control Board
Suite 11-500
100 West Randolph Street
Chicago, IL 60601

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