

ILLINOIS POLLUTION CONTROL BOARD

October 25, 1973

STEWART A. SHIMAN,)
)
 Petitioner,)
)
 v.) PCB 73-306
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by Mr. Henss)

Stewart A. Shiman filed a petition requesting variance from Order No. 7 of the League of Women Voters vs. North Shore Sanitary District, PCB 70-7, 12, 13 and 14. This Order prohibits further connection to sewers of the North Shore Sanitary District until the District demonstrates that it can adequately treat the waste from those new sources. Petitioner proposes to build a single family dwelling in Highland Park and wishes to connect the new dwelling to the sanitary sewer which is tributary to the Clavey Road Sewage Treatment plant, owned and operated by the North Shore Sanitary District.

During November 1972, Petitioner purchased a lot at 744 Sumac in Highland Park for the purpose of erecting an 8-room bi-level single family dwelling. Petitioner states that he was aware of "earlier" sewer ban problems in Highland Park but contends that, at the time his purchase was being negotiated, sewer and building permits were being granted and he was not aware of any impending problems in obtaining the sewer permit. The sewer permits which were issued in 1972 had been authorized by this Board in North Shore Sanitary District vs. EPA, PCB 71-343 (March 2, 1972). In that case we allowed the District to add a total of 5,000 living units or 20,000 population equivalence to the sewers tributary to the Clavey Road and Waukegan plants in the ratio of about 1/3 to Clavey Road and the remaining to Waukegan. Before Shiman could complete the land deal the District had used up its allotted quota of new connections to the Clavey Road plant thereby leaving Shiman with land and plans for which he could not get a building permit.

Shiman stated that he proceeded with his plans "buoyed by verbal assurances from the Mayor of Highland Park, the Highland Park Building Department, the news services and the North Shore Sanitary District". Petitioner claims to have expended \$12,835 for the property through June 14, 1973 with another \$948 in fees yet to be paid.

Petitioner indicated that a further delay in receiving the permit would cause additional hardships in that the interest rate on his mortgage loan would likely increase, he would experience a greater difficulty in trying to sell his present home due to the tightening mortgage money market, and the price of construction materials would rise substantially following the 60 day price freeze.

The Agency recommended denial of this Petition, stating that Petitioner's hardships were insufficient to justify the grant of a variance. The Agency Recommendation also attacked our decision Bereskin vs. EPA, PCB 73-143 as improper in that Bereskin was allowed to proceed with construction (but not sewer connection) prior to completion of Phase I of the Clavey Road Project. The Agency states that no decision to allow sewer connection should be made until after the receiving treatment plant has exhibited an ability to adequately treat additional flows.

According to information submitted by the Agency construction in the North Shore Sanitary District has now progressed to a point where the Clavey Road Plant has 10 MGD capacity. Average flow in the first eight months of 1973 was 7.8 MGD. Full secondary treatment (18 MGD) is expected by March 1, 1974, just one month after Petitioner's anticipated connection to the sewer system.

On balance Petitioner's hardships far outweigh any minimal risk which may exist for pollution of the environment from this additional sewer connection. Therefore, the variance will be granted.

ORDER

It is the order of the Board that Petitioner Stewart Shiman be granted variance from Order No. 7 of League of Women Voters vs. North Shore Sanitary District, PCB 70-7, 12, 13 and 14 for connection of his proposed single family dwelling in Highland Park.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 25th day of March, 1973 by a vote of 5 to 4.

Christan L. Moffett