

ILLINOIS POLLUTION CONTROL BOARD  
February 27, 1973

THOMAS H. STONE and )  
DONNA M. STONE, his wife )  
 ) #72-499  
 )  
v. )  
 )  
ENVIRONMENTAL PROTECTION AGENCY )

OPINION AND ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.):

Petition for variance was filed by Thomas H. Stone and Donna M. Stone, his wife, seeking a variance from our Sewer Ban Order entered in League of Women Voters, et al v. North Shore Sanitary District, #70-7,12,13 and 14, 1 PCB 369 (March 31, 1971), to enable connection of a single-family home located on Cedar Avenue in Highland Park to facilities tributary to the Cary Avenue sewage treatment plant of the North Shore Sanitary District.

On May 9, 1972, apparently under the mistaken impression that petitioners' property would be serviced by the Clavey Road plant for which a comprehensive variance had been granted, See North Shore Sanitary District v. Environmental Protection Agency, #71-343, 3 PCB 541 (January 31, 1972) and 3 PCB 697 (March 2, 1972), the North Shore Sanitary District notified petitioners that a sewer connection permit had been approved by both the District and the Environmental Protection Agency. In reliance on the ability to connect their home to facilities of the District, construction was commenced and the home was approximately one-half completed.

On November 15, 1972, petitioners were notified by the District that the sewer connection permit had been revoked because the sewer to which petitioner would connect was tributary to the Cary Avenue plant, to which no connections were permitted without variance, and not the Clavey Road plant as originally believed.

Petitioners allege that they have expended approximately \$58,000 for work performed between the receipt of the permit and its revocation and that without a sewer connection permit no certificate of occupancy will be issued after the structure has been completed. Petitioner contends that the misunderstanding was not a consequence of any misrepresentation on their part and that they acted in good faith in reliance on the permits authorized by both the North Shore Sanitary District and the Environmental Protection Agency.

Because the Board felt that it was virtually inconceivable that the District did not know what portions of Highland Park were serviced by its various facilities, we originally set the matter for hearing so that the circumstances of this situation would be made known. Both the Environmental Protection Agency and the Respondent petitioned that the matter be resolved without a hearing and the petition to dispense with hearing was continued to today pending receipt of submissions from the Agency and the District clarifying the circumstances under which the permit was improperly issued. We have received a letter from the North Shore Sanitary District over the signature of H. William Byers, its General Manager, indicating that the permit was issued in error due to his misreading of the sewer maps. A communication from the Environmental Protection Agency indicates that its action in authorization was premised upon the District's prior approval.

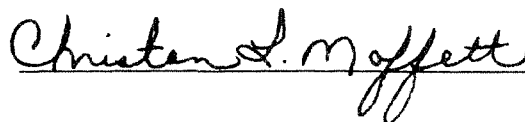
In consideration of all of the facts, we are satisfied that the error was inadvertent and not a consequence of any fault on the part of petitioners. It is indisputable that they will suffer severe hardship if they are prevented from connecting their home to sewer facilities tributary to the Cary Avenue plant. Since the filing of this petition, we have also been advised that improvements have been made at Cary that will justify treatment of a small additional population equivalent. See John S. Wineman, et al v. Environmental Protection Agency, #72-310, 5 PCB 709 (October 17, 1972).

It is manifest that the hardship on the petitioners in being denied a sewer connection permit is substantially greater than any hardship on the community which would result from this additional sewer load. The Agency has recommended that the variance be granted and we will so order. See John W. Bender v. Environmental Protection Agency, #72-324, 5 PCB 591 (October 3, 1972).

This opinion constitutes the findings of fact and conclusions of law of the Board.

IT IS THE ORDER of the Pollution Control Board that petitioners, Thomas H. Stone and Donna M. Stone, be granted a variance from our sewer connection ban order entered in League of Women Voters v. North Shore Sanitary District, ##70-7, 12, 13 and 14 on March 31, 1971, to enable connection of petitioners' single-family home west of and adjoining 320 Cedar Avenue, Highland Park, Illinois, to facilities tributary to the Cary Avenue plant of the North Shore Sanitary District.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was entered on the 27<sup>th</sup> day of February, 1973, by a vote of 3 to 0.

  
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