

ILLINOIS POLLUTION CONTROL BOARD

JUNE 13, 1974

J. BLUMBERG, INC.,)
Petitioner,)
)
)
v.) PCB 74-167
)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,))
Respondent.)

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

On April 29, 1974, Blumberg, Inc., filed a Petition for Variance with the Pollution Control Board seeking relief from the sewer ban set down in Order #7 of League of Women Voters v. North Shore Sanitary District #70-7, -12, -13, -14; 1 PCB 369 (March 31, 1971). Petitioner made its request at this time because of our recent Order in North Shore Sanitary District v. Environmental Protection Agency #73-134 (January 10, 1974). In that case, we granted the North Shore Sanitary District (NSSD) authority to issue 2,000 permits (8,000 P.E.) for connection to the Clavey Road sewage treatment plant to be effective after July 1, 1974. Petitioner has just completed construction of a furniture store at 3235 Belvidere, Park City, Lake County, Illinois. This store is served by the Clavey Road plant. Petitioner has obtained a permit to add 8 P.E. to the NSSD sewer line after July 1, 1974, but seeks immediate connection to facilitate a June 1 store opening.

Petitioner argued that to not grant the variance would result in financial hardship. Petitioner stated that its hardship, when balanced against the minimal adverse environmental consequences of a variance, should allow early hook-up. Petitioner estimated that delay until July 1 would result in a projected financial loss of \$20,000.

On June 5, 1974, the Environmental Protection Agency (EPA) recommended that the variance be denied. The EPA argued that the hardship, which is economic, is self-imposed because Petitioner acted with knowledge and without reliance when it entered into its project. EPA believes that Petitioner's use and enjoyment of its property is briefly suspended, but not terminated. Also, EPA pointed out that Petitioner's plight is not unique and is characteristic of virtually every property owner in the area affected by the sewer ban.

The Environmental Protection Agency reported that "the Clavey Road plant is now scheduled to achieve secondary treatment capacity of 17.8 million gallons per day (MGD) by June 1, 1974, though one of the nine primary tanks will not be operational until July 1, 1974."

The performance of the Clavey Road sewage treatment plant is shown by the following operation reports for eight months from September 1973 through April 1974:

Month	Average flow (MGD)	Average BOD ₅ (mg/l)	Average TSS (mg/l)
September 1973	6.7	7	18
October 1973	*	12	27
November 1973	*	32	31
December 1973	*	24	29
January 1974	*	16	18
February 1974	*	8	21
March 1974	*	17	15
April 1974	10.8	24	22

* Flow not reported

The NSSD should consistently produce an effluent with no more than 20 mg/l BOD₅ and 25 mg/l total suspended solids, according to Rule 404(b) in Chapter 3, Water Pollution Regulations, and as ordered by the Pollution Control Board in North Shore Sanitary District v. Environmental Protection Agency, PCB 71-343, January 31, 1972. Following improvements in the Clavey Road plant, it has achieved these standards during the first four months of 1974, except for BOD₅ in April 1974.

Strict adherence to our Order in North Shore Sanitary District v. Environmental Protection Agency, PCB 73-134, would indicate denial of this variance as was recommended by EPA. However, performance of the Clavey Road plant is improving and is in essential compliance with applicable standards. When July 1, 1974, was established in PCB 73-134 as the date on which additional sewer connections could be authorized to the Clavey Road plant, this was based on the projected completion of certain improvements and the anticipated increase in efficiency of operation. Monthly operation reports during the first one-third of 1974 for the Clavey Road plant indicate that it can now adequately treat additional sewage. Under these circumstances, we believe that Petitioner's request for a variance to July 1, 1974, can be granted without adversely affecting the environment.

ORDER

The Illinois Pollution Control Board hereby grants J. Blumberg, Inc., a Variance from Order #7 of League of Women Voters v. North Shore Sanitary District, PCB 70-7, -12, -13, and -14, to allow an immediate sewer connection for eight (8) population equivalents in Petitioner's newly-constructed furniture store at 3235 Belvidere, Park City, Lake County, Illinois. The eight (8) population equivalents in Petitioner's Variance shall be the same as authorized in Petitioner's sewer permit which is effective July 1974.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 13th day of June, 1974, by a vote of 4 to 0.


Christan L. Moffett