

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

BLAKE LEASING COMPANY, LLC,)	
)	
Petitioner)	
)	
v.)	PCB 2016-100
)	(Water Well Setback Exception)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY and VILLAGE)	
OF KIRKLAND,)	
Respondent.)	

APPEARANCE

The undersigned hereby enters her appearance as an attorney on behalf of the Illinois Environmental Protection Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Joanne M. Olson
Joanne M. Olson
Assistant Counsel
Division of Legal Counsel

Joanne M. Olson #6293500
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 N. Grand Ave. East
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Springfield, IL 62794-9276
(217) 782-5544

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ILLINOIS EPA'S MOTION TO DISMISS

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA” or “Agency”), by and through its counsel, and pursuant to 35 Ill. Adm. Code 101.304, hereby moves the Illinois Pollution Control Board ("Board") to dismiss BLAKE LEASING COMPANY, LLC's ("Petitioner") Petition for Water Well Setback Exception Pursuant to 415 ILCS 5/14.2(c) ("Petition"). In support thereof, the following statements are made:

- 1) On March 21, 2016, Petitioners filed the Petition electronically with the Board.
- 2) A Certificate of Service was attached to the Petition, stating that service had been

made on the following:

Lisa Bonnett
Director
Illinois Environmental Protection Agency 1021
North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

- 3) The Environmental Protection Act, Section 14.2(c) requires the Petitioner to serve the petition on the Agency. 415 ILCS 5/14.2(c).

4) Section 106.300 of the Board's procedural rules provides that "the filing and service requirements of 35 Ill. Adm. Code 101. Subpart C will apply to the proceedings of this Subpart." 35 Ill. Adm. Code 106.300 (2016). Section 106.302 requires the Petitioner to serve a copy of the petition on the Agency to initiate the proceeding.

5) Section 101.304(g) states that service on agencies must be at the address provided in subsection (g), unless a specific person has an appearance on file with the Board, or has consented to email service. 35 Ill. Adm. Code 101.304(g). The address listed for the Agency is the:

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

6) The Agency was never served with the Petition. The Certificate of Service does not provide the correct address for the Agency. It does not specify "1021" immediately before "North Grand Avenue East" on the fourth line of the address.

7) Furthermore, even if Director Bonnett had received the Petition, service upon Director Lisa Bonnett is not sufficient under the Board's rules, which requires service upon the Division of Legal Counsel. 35 Ill. Adm. Code 101.304(g).

8) Under Section 106.306, the Agency has 21 days from the day the Petition is filed to respond. Here, the deadline for the Agency's response was April 11, 2016.

9) The Agency was unable to file a response to the Petition because it was never served.

10) Section 101.304(b)(4) provides: "A proceeding is subject to dismissal, and the filing party is subject to sanctions, if service is not timely initiated or completed." 35 Ill. Adm. Code 101.304(b)(4).

11) The Agency requests that this proceeding be dismissed for failure to serve the petition.

12) In the alternative, the Agency requests the Board grant it 21 days to file its response from the date the Board denies the Agency's motion to dismiss.

WHEREFORE, for the above stated reasons, Illinois EPA asks the Board to dismiss this Petition.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/Joanne M. Olson
Joanne M. Olson
Assistant Counsel
Division of Legal Counsel

Joanne M. Olson #6293500
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1021 N. Grand Ave. East
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CERTIFICATE OF SERVICE

Joanne M. Olson, Assistant Counsel for the Illinois EPA, herein certifies that she has served a copy of the foregoing NOTICE OF FILING; and ILLINOIS EPA'S MOTION TO DISMISS upon

Village of Kirkland
Attn: Mayor Les Bellah
511 W. Main Street
Kirkland, Illinois 60146

Charles F. Helsten
Hinshaw & Culbertson LLP
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105-1389

by mailing, unless otherwise noted on the Service List, a true copy thereof in an envelope duly addressed bearing proper first class postage and deposited in the United States mail at Springfield, Illinois on April 28, 2016.

/s/Joanne M. Olson
Joanne M. Olson