

ILLINOIS POLLUTION CONTROL BOARD

October 24, 1974

DOROTHY A. ARNOLD and)
FAYE B. TAENZER,)
)
Complainants,)
)
v.) PCB 74-355
)
HERBERT GORDON,)
)
Respondent.)

ORDER (by Mr. Henss):

Respondent has filed a Motion to Strike the Complaint. The Board has carefully reviewed all of the pleadings and finds that the Motion to Strike is without merit. We have consistently held that the home rule powers of the various municipalities do not preclude the enforcement of our State Environmental Control Laws. This issue is now pending before the Illinois Supreme Court and depending upon the ruling of the Supreme Court may be raised again in this case.

This civil action which is brought by citizens under state regulation, is not barred by the fact that the City of Chicago had previously charged Respondent with violation of a city ordinance.

The pleadings indicate that Respondent is in possession of the premises in question and is probably the owner. He is a proper party Respondent.

Many of the matters contained in the motion and other pleadings are factual in nature and may be appropriate evidence in the case. We do not by this Order rule on the relevance or the admissibility of such evidence nor do we prejudge the merits. It is simply our finding that this action is not precluded because the parties happen to live in Chicago or by the prior action in Chicago Municipal Court. The Complaint is sufficient

under the Noise Regulation and must be scheduled for hearing.

Motion to Dismiss is denied. This matter will be scheduled for hearing on its merits.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Order was adopted this 24th day of October, 1974 by a vote of 5 to 0.

Christan L. Moffett