

ILLINOIS POLLUTION CONTROL BOARD  
August 30, 1971

WALTER R. SEEGREN )  
 )  
 v. ) PCB71-106  
 )  
 ENVIRONMENTAL PROTECTION AGENCY )

ELLIS E. FUQUA, ATTORNEY FOR WALTER R. SEEGREN  
ROGER C. GANOBICK, ATTORNEY FOR THE ENVIRONMENTAL PROTECTION AGENCY

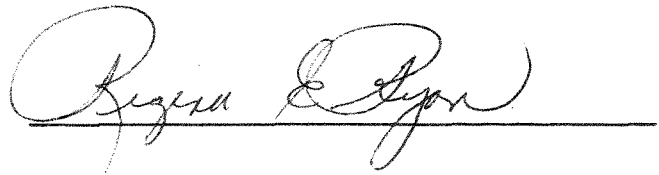
DISSENTING OPINION (BY MR. KISSEL):

I disagree with the opinion of the majority of the Board and would grant the variance to the Petitioner. This case is identical to the variance granted to Wachta and Mota, in which the Board indicated that its policy was to allow sewer connections certainly in the case where a building had been complete and was ready for occupancy before the date of the sewer ban (March 31, 1971). This is certainly the case here. The Petitioner had already completed two large apartment buildings and he was merely waiting for the sewer connection in order to occupy the buildings. To deny him the right to use the sewer system after the expenditure of substantial sums of money, and the total reliance on his right to use the sewers is completely contrary to all principles of constitutional law, as I have previously outlined in my dissenting opinion in the Wachta and Mota cases. See Wachta and Mota d/b/a Belle Plaine Subdivision v. EPA, PCB71-77, dated August 5, 1971.

The majority denies the variance here because the Petitioner has installed a septic field to handle the wastes from the apartments. While this may in certain instances be an acceptable alternative to depositing wastes into an overloaded sewer system, there is no evidence in the record that it is anything but an "emergency" use of the septic field concept. The clear testimony in the record is that the engineer who designed the septic system thought of it as an emergency use only and not to be a permanent installation. We do not know whether, and what kind of, problems will be caused by the use of this alternative. By forcing the Petitioner (and others who may follow this course), we may be creating more of a

health problem by keeping the wastes out of the treatment plants, than if we allowed the wastes to flow into the plant. To allow the septic system here without evidence as to its effect is akin to requiring horses be used instead of cars without evaluating the effect of the horses on the treatment plants.

I, Regina E. Ryan, Clerk of the Board, certify that Mr. Richard J. Kissel submitted the above dissenting opinion on this 30th day of August, 1971.

A handwritten signature in cursive script, reading "Regina E. Ryan", is written above a solid horizontal line.