

ILLINOIS POLLUTION CONTROL BOARD  
July 26, 1971

ROBERT C. WAGNON )  
 )  
 ) #71-85  
 v. )  
 )  
 ENVIRONMENTAL PROTECTION AGENCY )

ROBERT C. WAGNON, Pro Se  
LEE ZELLE, ATTORNEY FOR ENVIRONMENTAL PROTECTION AGENCY

OPINION OF THE BOARD (BY MR. LAWTON):

This Opinion is in support of an Order entered by this Board on Monday, July 19, 1971, denying applicant's petition for variance. The variance seeks relief from the sewer ban order entered by this Board on March 31, 1971 in case entitled "League of Women Voters, et al, v. North Shore Sanitary District, #70-7,12,13 and 14."

Petitioner is the owner of two lots located in Waukegan, purchased twenty-one years ago, during most of which time Petitioner was in the Armed Forces and recently discharged. He seeks to build a home for his family on the subject property and has been denied a permit because of the sewer ban. A contract for construction was entered into between Petitioner and Mordhorst Builders, Inc., Waukegan, Illinois, and a payment in the sum of \$500.00 for house plans was made on March 8, 1971, prior to the entry of the sewer ban order. The recommendation of the Environmental Protection Agency appears to recommend denial of the variance, based upon the original March 31, 1971 order. Hearing was held on the petition in Waukegan on June 21, 1971, at which time Petitioner stated the need for new housing for his family, his payment of taxes over the twenty years in which he has been in title, the payment of \$500.00 to the builder and the likelihood of increased costs resulting from further delay, all to establish unreasonable hardship in order to justify the granting of the variance. Raymond E. Anderson, Secretary and General Manager of the North Shore Sanitary District, testified in support of the requested variance.

In denying the variance petition, the Board is not unmindful of the difficulties imposed on Petitioner as a consequence of the sewer ban. However, the \$500.00 payment is not a forfeiture, but payment for plans which petitioner has received and which will be available for use at such time as Petitioner wishes to proceed with construction.

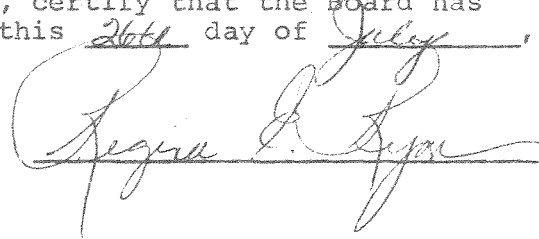
We do not feel that the hardships imposed on Petitioner are of a magnitude sufficient to invoke the doctrine of estoppel entitling the applicant to the issuance of the permit. See *Monyek v. EPA*, #71-80, dated July 19, 1971, in which we said:

"Undeniably, petitioner is confronted with some measure of inconvenience in this case. We cannot, however, view petitioner's plight as singular and therefore arbitrary nor can we commiserate to such a degree that we grant rather than deny this request. In cases where a house has been completely built before the date of the order (March 31, 1971) or where substantial steps toward completion have been taken we can clearly judge the hardship of non-connection to be unreasonable. In fact we have done so in the recently decided case of *Wachta and Mota, d/b/a Belle Plaine Subdivision v. EPA, PCB 71-77*. There the petitioner had seven units completely built, and the Board granted a variance to permit the sewer connections. For the remaining lots in the subdivision the Board ordered the builders to present a program to the Board demonstrating the feasibility of alternatives."

This Opinion constitutes the findings of fact and conclusions of law by the Board.

IT IS THE ORDER of the Pollution Control Board that the Petition for Variance be denied.

I, Regina E. Ryan, Clerk of the Board, certify that the Board has approved the above Opinion and Order this 26th day of July, 1971.

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