

ILLINOIS POLLUTION CONTROL BOARD
December 15, 2022

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 22-77
)	(Enforcement - Air)
LALA KALA, INC., an Illinois corporation)	
)	
Respondent.)	

ORDER OF THE BOARD (by B. F. Currie):

On May 20, 2022, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against Lala Kala, Inc. (Lala Kala). The complaint concerns Lala Kala’s gasoline dispensing facility located at 938 East St. Charles Road, Lombard in DuPage County. On July 25, 2022, Lala Kala filed a motion to dismiss the complaint (Mot.). On August 8, 2022, the People filed a response in opposition to the motion (Resp.). Today, the Board denies Lala Kala’s motion to dismiss as it was untimely filed.

PROCEDURAL BACKGROUND

In this case, the People allege that Lala Kala violated Section 9(a) of the Environmental Protection Act (Act) (415 ILCS 5/9(a) (2020)) and Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations (35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C)) by causing, threatening, or allowing the discharge or emission of VOCs into the environment; by failing to timely decommission its vapor collection and control system; and by failing to submit a decommissioning checklist, certification, and test results to the Illinois Environmental Protection Agency. The People ask the Board to order Lala Kala to cease and desist from any further violations of the Act and regulations and pay civil penalties of \$50,000 for each violation and \$10,000 for each day during which each violation continued, and that the Board award the People their costs and reasonable attorney fees.

The Board found that the complaint met the content requirements of the Board’s procedural rules and accepted the complaint for hearing on June 23, 2022.

LEGAL STANDARD

Section 101.506 of the Board’s Procedural Rules provide the rules for timely filing of motions attacking the sufficiency of the petition, complaint, or other pleadings.

All motions to strike, dismiss, or challenge the sufficiency of any pleading filed with the Board must be filed within 30 days after the service of the challenged document, unless the Board determines that material prejudice would result. 35 Ill. Adm. Code 101.506.

BOARD DISCUSSION AND FINDING

The People's complaint was filed with the Board on May 20, 2022. On July 27, 2022, the People filed a proof of service of the complaint. The proof of service showed that the president of Lala Kala, Inc. was served via certified mail on May 27, 2022.


Lala Kala filed its motion to dismiss on July 26, 2022, 60 days after it was served with the complaint. Lala Kala did not make any showing that material prejudice would result with the prescribed 30 day time frame, nor did it request an extended deadline from the hearing officer or the Board for its motion to dismiss. The Board therefore denies Lala Kala's motion to dismiss as untimely filed pursuant to 35 Ill. Adm. Code 101.506.

ORDER

1. Lala Kala's motion to dismiss is denied.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 15, 2022, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board