

ILLINOIS POLLUTION CONTROL BOARD
May 18, 2023

PAUL CHRISTIAN PRATAPAS,)
)
 Complainant,)
)
 v.) PCB 23-63
) (Citizen Enforcement Action – Water)
 PULTE HOME COMPANY, LLC, a Michigan)
 limited liability company,)
)
 Respondent.)

ORDER OF THE BOARD (by M. Gibson):

On November 28, 2022, Paul Christian Pratapas filed a citizen’s complaint (Comp.) against Trillium Farm by Pulte Homes, LLC (Pulte). The complaint concerns Pulte’s residential construction located at Purnell Road, Winfield, DuPage County.¹ On December 19, 2022, Pulte filed a motion requesting that the Board not accept the complaint for failure to properly serve the complaint, as well as a motion to dismiss on the grounds that the complaint is frivolous and alleges a wholly past violation (Mot.).

The Board first addresses the proper name of the respondent, then addresses the issue of service, and finally discusses the motion to dismiss. The Board directs the Clerk to correct the respondent’s name, grants Pulte’s motion regarding service, allows Mr. Pratapas to attempt to perfect service, and will address the motion to dismiss the complaint at a later time.

NAMED RESPONDENT

As filed, Mr. Pratapas named “Trillium Farms by Pulte Homes” as the respondent in this complaint. In its December 19, 2022, motion, the attorney for Pulte indicated that the proper name for the respondent is “Pulte Home Company, LLC.” The Board corrects the caption in this order and directs the Clerk to correct the respondent’s name in the docket of this case.

SERVICE OF COMPLAINT

Under the Environmental Protection Act (Act) (415 ILCS 5 (2020)), any person may bring an action before the Board to enforce Illinois’ environmental requirements. *See* 415 ILCS 5/3.315, 31(d)(1) (2020); 35 Ill. Adm. Code 103. Under the Board’s rules, an enforcement proceeding begins by serving a notice and the complaint on a respondent. *See* 35 Ill. Adm. Code 103.204(a), (b). Specifically, service must be “by U.S. Mail with a recipient's signature recorded, a third-party commercial carrier with a recipient’s signature recorded, or personal

¹ The complaint does not cite the specific address of the alleged violation. Rather it states that the violation happened on Purnell Road in Winfield, Illinois because the signage was missing. Comp. at 2.

service.” *Id.* Notably, enforcement complaints may not be served by e-mail. *See* 35 Ill. Adm. Code 101.1000(e).

If service is not timely initiated or completed, then the “proceeding is subject to dismissal, and the filing party is subject to sanctions.” 35 Ill. Adm. Code 101.304(b)(4). In this case, Mr. Pratapas used a sample complaint form available from the Board’s website that is directed at citizen complaints. The Board’s form includes a sample affidavit of service that lists appropriate methods of service. Mr. Pratapas reported to the Board that the complaint would be served on the respondent by “[p]ersonal service and [Mr. Pratapas] will make the personal delivery. However, the affidavit of service is not available to me currently.” Comp. at 9. Illinois law requires that a private corporation be served by, “(1) leaving a copy of the process with its registered agent or any officer or agent of the corporation found anywhere in the State; or (2) in any other manner now or hereafter permitted by law.” 735 ILCS 5/2-204 (2020).

Here, the Illinois Secretary of State shows that the registered agent for Pulte Home Company, LLC in Illinois is Illinois Corporation Service Company, whose address is 801 Adlai Stevenson Drive, Springfield, Illinois, 62703. However, Mr. Pratapas did not serve the company as seen in the “Documentation of Service,” indicating “[a]fter all due diligence [Mr. Pratapas] was unable to locate and serve the targeted person(s).” As noted above, the Board rules require service of a complaint in an enforcement proceeding. Therefore, because Mr. Pratapas did not personally serve Pulte’s registered agent in Illinois, service was not proper on Pulte.

The Board grants Pulte’s motion to not accept the complaint for failure to serve; however, the Board directs Mr. Pratapas to file the required proof of service of the complaint on the respondent no later than Monday, June 19, 2023, which is the first business day following the 30th day after the date of this order (*see* 35 Ill. Adm. Code 101.300(a)), or face dismissal of the complaint for failure to properly serve the complaint.

MOTION TO DISMISS

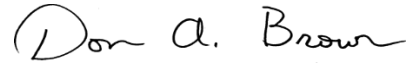
The Board cannot accept a complaint until the complaint has been properly served on respondent. Therefore, the Board will delay its ruling on the motion to dismiss until such date, or after June 19, 2023.

ORDER

1. The Board directs the Clerk to correct the name of the respondent in the docket.
2. The Board grants Pulte’s motion to not accept the complaint for failure to serve.
3. The Board directs Mr. Pratapas to file the required proof of service of the complaint on the respondent no later than Monday, June 19, 2023.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 18, 2023, by a vote of 3-0.

A handwritten signature in black ink that reads "Don A. Brown". The letters are cursive and fluid, with a large initial "D" and "B".

Don A. Brown, Clerk
Illinois Pollution Control Board