

ILLINOIS POLLUTION CONTROL BOARD

January 6, 2005

YORK HIGH NEIGHBORHOOD)	
COMMITTEE, JANET HODGE, FRED)	
HODGE, PATRICIA BENNETT, DAVID)	
BENNETT, SHEILA TRANT, MIKE)	
TRANT, JOE VOSICKY, JEAN CONROY,)	
PETER CONROY, FRANK SOLDANO,)	
JOSEPH REAMER, ELIZABETH)	
LALIBERTE, and CHARLES LALIBERTE,)	
)	
Complainants,)	
)	
v.)	PCB 05-93
)	(Citizens Enforcement - Noise)
ELMHURST PUBLIC SCHOOLS,)	
DISTRICT 205,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

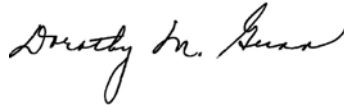
On November 15, 2004, York High Neighborhood Committee, Janet Hodge, Fred Hodge, Patricia Bennett, David Bennett, Sheila Trant, Mike Trant, Joe Vosicky, Jean Conroy, Peter Conroy, Frank Soldano, Joseph Reamer, Elizabeth Laliberte, and Charles Laliberte (complainants) filed a complaint against Elmhurst Public Schools, District 205 (respondent). *See* 415 ILCS 5/31(d) (2002); 35 Ill. Adm. Code 103.204. Complainants allege that respondent violated Section 23 and 24 of the Environmental Protection Act (Act) (415 ILCS 4/23 and 24 (2002)) and 35 Ill. Adm. Code 901.102(a) and (b) and 901.106 by the operation of air conditioners. The complaint concerns respondent's school, York High School at 355 W. St. Charles Road in Elmhurst, DuPage County. On November 16, 2004, complainants filed proof of service of the complaint on respondent.

Section 31(d) of the Environmental Protection Act (415 ILCS 5/31(d) (2002)) allows any person to file a complaint with the Board. Section 31(d) further provides that "[u]nless the Board determines that such complaint is duplicative or frivolous, it shall schedule a hearing." *Id.*; *see also* 35 Ill. Adm. Code 103.212(a). A complaint is duplicative if it is "identical or substantially similar to one brought before the Board or another forum." 35 Ill. Adm. Code 101.202. A complaint is frivolous if it requests "relief that the Board does not have the authority to grant" or "fails to state a cause of action upon which the Board can grant relief." *Id.* Within 30 days after being served with a complaint, a respondent may file a motion alleging that the complaint is duplicative or frivolous. 35 Ill. Adm. Code 103.212(b). Respondent has not filed a motion and there is no evidence before the Board which indicates that the complaint is duplicative or frivolous.

The Board accepts the complaint for hearing. *See* 415 ILCS 5/31(d) (2000); 35 Ill. Adm. Code 103.212(a). A respondent's failure to file an answer to a complaint within 60 days after receiving the complaint may have severe consequences. Generally, if respondent fails within that timeframe to file an answer specifically denying, or asserting insufficient knowledge to form a belief of, a material allegation in the complaint, the Board will consider respondent to have admitted the allegation. 35 Ill. Adm. Code 103.204(d). The Board directs the hearing officer to proceed expeditiously to hearing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 6, 2005, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board