

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

3 THOMAS and KIMBERLY CORNING,)
)
4 Complainants,)
)
5 vs) No. PCB 96-69
)
6 THURELA'S PAM and ARTHUR HEGJI,)
)
7 Respondents.)

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11 The following is a transcript
12 of a hearing held in the above-entitled matter
13 taken before KIM M. HOWELLS, CSR, a notary
14 public within and for the County of Cook and
15 State of Illinois, on the 3rd day of January,
16 A.D., 1997, before JUNE C. EDVENSON, ESQ.,
17 Hearing Officer, at the Lake Zurich Village
18 Hall, 70 East Main Street, Lake Zurich,
19 Illinois, commencing at 11 o'clock a.m.

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1 HEARING TAKEN BEFORE:

2 ILLINOIS POLLUTION CONTROL BOARD,
3 James R. Thompson Center
4 100 West Randolph Street
5 Suite 11-500
6 Chicago, Illinois 60601
7 (312) 814-6930
8 BY: MS. JUNE C. EDVENSON, ESQ.

9 APPEARANCES:

10 THE JEFF DIVER GROUP,
11 45 South Park Boulevard
12 Suite 270
13 Glen Ellyn, Illinois 60137
14 (630) 790-0001
15 BY: MR. STEVEN P. KAISER,
16 Appeared on behalf of the Complainants,

17
18 PARTRIDGE & NIRO, P.C.,
19 900 West Jackson Boulevard
20 Suite 5 East
21 Chicago, Illinois 60607
22 (312) 850-1906
23 BY: MS. ELLEN L. PARTRIDGE,
24 Appeared on behalf of the Respondents.

ALSO PRESENT:

Pam Hegji
Arthur Hegji

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1 THE HEARING OFFICER: Good morning and
2 welcome. This is a contested case hearing
3 conducted by the Illinois Pollution Control
4 Board, Case No. PCB 96-69 entitled Thomas
5 Corning and Kimberly Corning, complainants,
6 versus Thurela's Pam Hegji and Arthur Hegji,
7 respondents. This case is in the nature of a
8 noise enforcement proceeding.

9 My name is June Edvenson. I am the
10 board's hearing officer for this case. I will
11 now request that counsel for the parties enter
12 their appearances for the record.

13 MR. KAISER: Good morning. My name is
14 Steven Kaiser, K-a- i-s-e-r. I am the attorney
15 for the complainants, Thomas and Kimberly
16 Corning, and I believe I've previously filed
17 an appearance with the board.

18 THE HEARING OFFICER: Thank you.

19 MS. PARTRIDGE: My name is Ellen Partridge
20 for Thurela's Pam and Arthur Hegji.

21 THE HEARING OFFICER: Thank you.

22 Let the record also show that we have
23 some members of the parties with us, and
24 welcome, Mr. and Mrs. Hegji. And let the

1 record show there are no other persons in
2 attendance.

3 All right. Are there any preliminary
4 motions or stipulations?

5 MR. KAISER: No, Madam Hearing Officer.

6 THE HEARING OFFICER: All right. Then what
7 I would like to do before we proceed is
8 discuss the order of the hearing and also
9 briefly summarize what has occurred in this
10 case.

11 The complaint in this case was filed on
12 September 20, 1995. Mr. Kaiser filed his
13 written appearance on November 3, '95, and in
14 the meantime, a motion to dismiss was filed
15 with the board. The motion to dismiss, I
16 believe, was ruled on, and the bulk of
17 calendar year 1996 was spent in discovery
18 activities and negotiations between the
19 parties.

20 In the early fall of '96, or shall I say
21 late summer of '96, the board entertained a
22 proposed stipulation and settlement agreement
23 that was submitted by the parties. And on
24 August 15th, the board ruled, and I'll quote

1 just briefly.

2 "The board recognizes the inconvenience
3 and expense involved with sending this matter
4 to hearing. However, the board cannot waive
5 the statutory requirement that a hearing be
6 held. If the parties desire the proposed
7 stipulation and settlement agreement to be
8 entered into a board order, a hearing must be
9 held. However, if the parties do not wish the
10 stipulation and proposed settlement agreement
11 to be entered into the record, the complainant
12 may withdraw the complaint, and the board will
13 close the docket in this matter without
14 addressing a stipulation and proposed
15 settlement agreement."

16 Thereafter, the parties determined to, I
17 believe, renegotiate details of the proposed
18 settlement, and we had a new appearance filed
19 on behalf of the respondents. Miss Partridge
20 filed her appearance on August 29, 1996.

21 That takes us up to the present, and, I
22 believe, the parties are ready with a
23 settlement agreement.

24 Is that correct?

1 MR. KAISER: Yes, we are, Madam Hearing
2 Officer.

3 THE HEARING OFFICER: All right. Okay.
4 Again, in terms of the order, let's just have
5 the complainants make their statement, and the
6 respondents can make their statement.

7 O P E N I N G S T A T E M E N T

8 by Mr. Kaiser

9 Thank you.

10 Yes, we concur with the outline of the
11 history of this proceeding. As you noted,
12 Miss Edvenson, the complaint was filed on
13 September 20, 1995. My clients, Thomas and
14 Kimberly Corning, had moved into their home in
15 the late fall of 1993.

16 As the board may know by a review of the
17 documents, the Hegjis, who are here today, and
18 my clients, the Cornings, share a property
19 line. The Hegjis live to the east. The
20 Cornings live to the west.

21 Shortly after moving in -- and on the
22 Hegjis property, Mr. and Mrs. Hegji are
23 engaged in kennel operations. They raise
24 German shepherds both for the pleasure it

1 brings them and also for show and on occasion
2 to sell these animals.

3 The barking of the German shepherds as
4 it existed in the late fall of 1993 and
5 throughout 1994, as we maintained in our
6 complaint, unreasonably interfered with the
7 ability of Tom and Kim Corning and their
8 family to enjoy the peace and quiet to which
9 residents of the state of Illinois are
10 entitled.

11 They felt that there was no other
12 recourse but to file a complaint in September
13 of 1995 and noted that shortly after the
14 filing of the complaint the kennel noise
15 abated, and the noise has remained at a level
16 which is acceptable to the Cornings,
17 essentially since the filing of the
18 complaint.

19 As you noted, we did engage in discovery
20 in this matter. We briefed the motion to
21 dismiss. The motion to dismiss was denied.
22 We exchanged written discovery. Both sides
23 filed interrogatories and responded to
24 interrogatories. In addition, all parties

1 were deposited. Thomas and Kimberly Corning sat
2 for depositions, and Pam and Art Hegji also
3 had their depositions taken.

4 About the time of the depositions,
5 Mr. Greg Zack, the noise enforcement
6 specialist for the Illinois Environmental
7 Protection Agency, got involved, came up to
8 Lake County, and was allowed by the Hegjis to
9 view their kennel operations. And I want to
10 acknowledge on the record the role that
11 Mr. Zack played in bringing the parties
12 together and finding essentially a middle
13 ground in helping the parties design
14 acoustical structures which would help keep
15 the noise to a minimum and also discussing
16 with the Hegjis behavioral changes that could
17 be made in the way they handle their animals
18 in the areas of their property that were
19 acceptable to the Hegjis and which would bring
20 relief to the Cornings.

21 His role was critical. He identified
22 these structural changes. It's the assistance
23 of the party's behavioral changes and it's
24 those changes, those structural changes, that

1 are embodied in the agreed stipulation and
2 proposal for settlement.

3 We arrived at, essentially, the terms of
4 that order in June of 1996. Then there was
5 some discussion about how to perfect the
6 settlement, as you noted, and the board
7 required that there be a public hearing. And,
8 frankly, we're grateful that this period of
9 time has gone by.

10 It has allowed both sides to gain a
11 certain level of comfort with the controls
12 that are in place. My clients feel that if
13 the Hegjis abide by the terms of the
14 agreement, they will be allowed to enjoy the
15 property in the way they had hoped.

16 Similarly, I think the Hegjis will buy a
17 certain peace of mind from this knowing that
18 these are the rules that they've agreed to and
19 that adherence to those rules, we hope, will
20 resolve this dispute between neighbors.

21 It's with that background in mind and
22 with the hopes that the terms set forth in the
23 agreed stipulation will provide a basis for
24 resolution that we've come before the board

1 today and ask the board to enter as an order
2 of its own the terms set forth in the agreed
3 stipulation.

4 And with that, we move the board to do
5 so, and we thank the board for providing the
6 Cornings with this vehicle or this forum in
7 which to bring their conflict to a peaceful
8 resolution.

9 So thank you, and we look forward to the
10 final resolution in this matter.

11 THE HEARING OFFICER: Thank you,
12 Mr. Kaiser. And I have before me what is
13 entitled Agreed Stipulation and Proposal for
14 Settlement that has been submitted here
15 today.

16 Does this represent the final settlement
17 that is proposed?

18 MS. PARTRIDGE: Yes. We also join in the
19 motion for the agreed stipulation and proposal
20 for settlement on behalf of Pam and Arthur
21 Hegji.

22 THE HEARING OFFICER: All right. Because
23 it's coming in as a hearing, I will identify
24 it as an exhibit of the hearing and it will be

1 Exhibit No. 1.

2 (Respondents' Exhibit No. 1
3 marked for identification,
4 1/3/97.)

5 O P E N I N G S T A T E M E N T

6 by Ms. Partridge

7 I would just like to add that the Hegjis
8 did move to this area because there were three
9 kennels that were licensed directly in a row
10 including one that had been on the Cornings'
11 property and one on the Hegjis' property and
12 one on the property on the other side.

13 They moved to this area with the idea of
14 having a dog kennel in an area where it would
15 be an acceptable use of the property. And
16 this stipulation is without any agreement that
17 they violated any provisions of the
18 Environmental Protection Act.

19 THE HEARING OFFICER: All right.

20 Any further comments?

21 MR. KAISER: Nothing further from the
22 complainants.

23 THE HEARING OFFICER: All right. Okay.

24 Then, at this point in time, I believe our

1 hearing is concluded. I want to thank the
2 counsel and the parties for their attendance,
3 and I believe that the board will have a
4 completed transcript in this matter within
5 eight workdays.

6 I know that they are interested in
7 prompt resolution of all matters for which the
8 record is closed and ready for discussion, and
9 I know they will look forward to seeing your
10 stipulation and ruling on it.

11 Thank you very much for your attendance
12 and cooperation in our process.

13 (Which were all the
14 proceedings had in this
15 matter at this time.)

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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF C O O K)

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4 I, KIM M. HOWELLS, CSR, do hereby state
5 that I am a court reporter doing business in
6 the City of Chicago, County of Cook, and State
7 of Illinois; that I reported by means of
8 machine shorthand the proceedings held in the
9 foregoing cause, and that the foregoing is a
10 true and correct transcript of my shorthand
11 notes so taken as aforesaid.

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KIM M. HOWELLS, CSR
Notary Public, Cook County, IL.

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SUBSCRIBED AND SWORN TO
18 before me this _____ day
19 of _____, A.D., 1997.

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