

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

MATHER INVESTMENT PROPERTIES)	
L.L.C.)	
)	
Complainant,)	
)	
v.)	Case No. 05-29
)	
ILLINOIS STATE TRAPSHOOTERS)	
ASSOCIATION, INC.,)	
)	
Respondent.)	

**PETITIONER'S RESPONSE TO RESPONDENT'S
MOTION FOR LEAVE TO FILE REPLY**

NOW COMES Petitioner, Mather Investment Properties, L.L.C., by its attorneys, Sorling, Northrup, Hanna, Cullen & Cochran, Ltd., Charles J. Northrup, of counsel, and hereby objects to Respondent's Motion For Leave to File Reply In Support of Motion for Stay Instanter. In support, Petitioner states:

1. On or about June 7, 2005 Respondent filed its Motion for Leave to File Reply.
2. Pursuant to 35 Ill.Adm. Code 101.500(e) of the Board's procedural rules, no party has a right to reply unless such a reply is: (1) allowed by the Board; and (2) necessary to prevent "material prejudice."
3. Respondent makes no allegation of "material prejudice." Respondent merely contends that it will be "prejudiced" if unable to respond to the matters raised in Petitioner's Response (See R. Mot. par. 2). This failure to allege *material prejudice* dooms Respondent's Motion. See People v. Skokie Valley Asphalt Co., et al., PCB No. 96-98 (June 5, 2003)("Bald assertions that material prejudice will result is not sufficient for the Board to grant a motion for leave to file.")

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4. Respondent's sole allegation in support of its Motion is that it must be allowed to respond to Petitioner's arguments in response to Respondent's original Motion For Stay that were not anticipated by Respondent. This is insufficient grounds for allowing a reply. No new facts are presented nor is the Motion to File Reply sought to correct misleading statements. People v. Chiquita Processed Foods, L.L.C., PCB No. 02-56 (April 18, 2002). In addition, allowing the Respondent to reply in this case just because it did not anticipate certain arguments raised in opposition to its original Motion For Stay is a circumstance potentially present in every case before the Board. To allow such minimal grounds to support a right to reply would eviscerate Rule 101.500(e) and its intended applicability to only the most deserving situations where *material* prejudice would result.

WHEREFORE Petitioner Mather Investment Properties, L.L.C. respectfully requests that the Board deny "Respondent's Motion for Leave to File Reply in Support of Motion for Stay Instante.".

Respectfully submitted,

Mather Investment Properties, L.L.C.

By: _____
One Of Its Attorneys

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PROOF OF SERVICE

The undersigned hereby certifies that the foregoing document was served by electronically filing it with the Illinois Pollution Control Board:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
100 West Randolph St., Suite 11-500
James R. Thompson Center
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and one copy:

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and by depositing same in the United States mail in Springfield, Illinois, on the ____ day of June, 2005, with postage fully prepaid.
