

ILLINOIS POLLUTION CONTROL BOARD
May 5, 1994

ANNE SHEPPARD, JAMES VERHEIN,)
JEROLD LECKMAN,)
)
Complainants,)
) PCB 94-2
v.) (Citizens Enforcement)
)
NORTHBROOK SPORTS CLUB AND)
VILLAGE OF HAINESVILLE,)
)
Respondents.)

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

On January 20, 1994, in responding to a motion for extension of time filed by respondents, the Board asked the parties in this proceeding to address two specific issues prior to the Board accepting this case. The issues to be addressed were whether the "complained of activity is an 'organized amateur or professional sporting activity' and whether the claim alleges violations of the Environmental Protection Act (Act) which fall within the Board's purview". (1/20/94 at 2.) On January 26 and January 28, 1994, Northbrook Sports Club (NSC) filed a motion to dismiss as frivolous the complaint and response to the Board's order, respectively. On April 4, 1994 complainants filed its response to the Board's order and the NSC motion to dismiss. On April 18, 1994, NSC filed a motion for leave to file a reply to complainants' response. On May 2, 1994, complainants filed a motion for leave to file a reply in support of complainants' response to the Board's order. The motion to file a reply filed by NSC is hereby granted. The motion to file a reply in support of complainants' response is denied. In addition to these filings, the Village of Hainsville filed a motion to dismiss on January 27, 1994.

LEGAL FRAMEWORK

Section 25 of the Act provides, in part:

The Board shall, by regulations under this Section, categorize the types and sources of noise emissions that unreasonably interfere with the enjoyment of life, or with any lawful business, or activity, and shall prescribe for each such category the maximum permissible limits on such noise emissions.

* * *

No Board standards for monitoring noise or regulations prescribing limitations on noise emissions shall apply to any organized amateur or professional sporting activity except as otherwise provided in this Section.

Section 3.25 of the Act defines "Organized Amateur or Professional Sporting Activity" as:

"ORGANIZED AMATEUR OR PROFESSIONAL SPORTING ACTIVITY" means an activity or event carried out at a facility by persons who engaged in that activity as a business or for education, charity or entertainment for the general public including all necessary actions and activities associated with such an activity. This definition includes, but is not limited to, skeet, trap or shooting sports clubs in existence prior to January 1, 1975, organized motor sports, and sporting events organized or controlled by school districts, units of local government, state agencies, colleges, universities or professional sports clubs offering exhibitions to the public.

In Kochanski et al v. Hinsdale Golf Club et al (197 Ill.App.3d 634, 555 N.E.2d 31(2nd Dist. 1990)) the court stated that:

Because the skeet-shooting activity at issue here clearly falls within the first-listed exemption [of the statute], it is thereby excluded from the regulatory purview of the Board. Consequently, the Board had no authority to hear the matter. (Kochanski at 34.)

Thus, according to the plain language of the statute, if the complained of activity is an organized amateur or professional sporting event, the Board's regulations do not apply. Further, a skeet, trap or shooting sports club, even a private club, is exempt from the Board's standards.

ISSUES AND FINDINGS

The complainants set forth several arguments in their response on the issue of the whether NSC is a skeet shooting club. Those extensive arguments will not be repeated here; however after careful review, the Board does not find the arguments convincing. The NSC was founded in 1944 and has continuously been involved in skeet and trap shooting. The property includes a clubhouse and regularly scheduled shooting activities. The Board finds nothing in the record which would lead it to determine that the NSC is not a skeet or trap shooting club. Therefore, the NSC is not subject to the Board's standards.

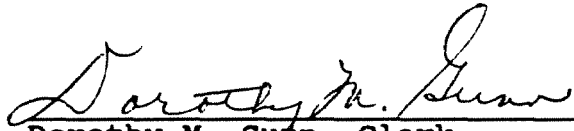
The complainants argue that even if the Board's regulations do not apply, the activity could still be in violation of the Act. The Board is not persuaded by this argument. A plain

reading of the statute indicates that these types of activities are exempt. Further, the Act does not set forth a violation for noise pollution absent Board standards. Section 24 of the Act specifically prohibits the emission of noise beyond the boundaries of property that "unreasonably interferes with the enjoyment of life or with any lawful business or activity, so as to violate any regulation or standard adopted by the Board under this Act". (Section 24 of the Act.)

The Board finds that the NSC is an "organized amateur or professional sporting activity" and is therefore exempt from the Board's noise standards. Because the NSC is exempt this case is not properly before the Board and is hereby dismissed.¹ The Board directs that this docket be closed.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 5th day of May, 1994, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

¹ Because the Board today dismisses this proceeding in its entirety, we will not address the issue raised by respondent Village of Hainesville. The Village had argued in its motion to dismiss that it was not a proper party to this proceeding.