

ILLINOIS POLLUTION CONTROL BOARD  
September 1, 1994

DOROTHY FURLAN AND	)	
MICHAEL FURLAN,	)	
	)	
Complainants,	)	
	)	
v.	)	PCB 93-15
	)	(Enforcement)
UNIVERSITY OF ILLINOIS	)	
SCHOOL OF MEDICINE	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by E. Dunham):

This matter comes before the Board on a complaint filed January 29, 1993 by Dorothy and Michael Furlan (Complainants). The complaint alleges that the air conditioners at the University of Illinois School of Medicine (Respondent) in Rockford, Illinois emit noise in violation of Sections 23 and 24 of the Environmental Protection Act (Act) (415 ILCS 5/23 and 24). In April, 1994, both parties filed status reports stating that noise monitoring was to be performed during the air conditioning season of 1994. In a further status report of July 1, 1994, complainant stated that the monitoring was scheduled for the first week of July, 1994.

Results of tests performed by the Illinois Environmental Protection Agency (Agency) were filed with the Board on July 14, 1994. According to the test results, there were no exceedences of the numerical standards for noise found at 35 Ill. Adm. Code 901.

Respondent filed a "Motion for Summary Judgment" on August 8, 1994, asserting that the noise level testing indicated that there were no violations of the numerical standards. No response to the motion for summary judgment has been filed by the Complainants.

Section 23 of the Act describes the findings of the General Assembly concerning excessive noise and the purpose of the title which is "to prevent noise which creates a public nuisance". (415 ILCS 5/23.) Section 24 of the Act provides that "[n]o person shall emit beyond the boundaries of his property any noise that unreasonably interferes with the enjoyment of life or with any lawful business or activity" in violation of any Board regulation. (415 ILCS 5/24.)

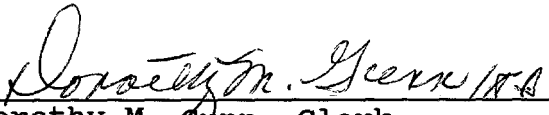
The Board accepts the findings of the Agency as proof that the noise levels in the complainants' home do not violate the Board's numerical standards for noise. The noise nuisance count has not been specifically addressed, but pursuant to 35 Ill. Adm.

Code 101.241(b), failure to respond to a motion is deemed to be waiver of any objection to the grant of the motion. Summary judgment for the respondent is granted.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1992)), provides for appeal of final orders of the Board within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motion for Reconsideration.)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 1<sup>st</sup> day of September, 1994, by a vote of 6-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board