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BEFORE THE ILLINOIS  
POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
ANTONIO D.H. NAM, )  
Petitioner, )No. PCB 97-234  
vs. )  
KIKON SUH, )  
Respondent. )

VOLUME II, Pages 28 - 37

The following is a transcript of proceedings from the hearing held in the above-entitled matter, taken stenographically by ROSEMARIE LAMANTIA, CSR, a notary public within and for the County of Cook and State of Illinois, before JOHN KNITTLE, Hearing Officer, at 1000 Civic Center Drive, Niles, Illinois, on the 26th day of February 2001, A.D., scheduled to commence at the hour of 9:30 a.m.

1 A P P E A R A N C E S :

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3 HEARING TAKEN BEFORE:

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5 ILLINOIS POLLUTION CONTROL BOARD,

6 100 West Randolph Drive

7 Room 11-500

8 Chicago, Illinois 60601

9 BY: JOHN KNITTLE, HEARING OFFICER

10

11 JOSEPH ANNUNZIO

12 1000 Civil Center Drive

13 Niles, IL 60714

14 (847)588-8027

15 Appeared on behalf of the Petitioner;

16

17

18 KOLPAK & LERNER

19 6767 North Milwaukee Avenue

20 Niles, IL 60714

21 (847)647-0336

22 BY: MR. JACK REISS

23 Appeared on behalf of the Respondent.

24

1           HEARING OFFICER KNITTLE: Good morning. My name  
2 is John Knittle. I'm the chief hearing officer for the  
3 Illinois Pollution Control Board, also the assigned  
4 hearing officer for PCB 1997-234, Antonio D.H. Nam  
5 versus Kikon Suh.

6           It's approximately 9:50 a.m. on February 26th,  
7 2001. This hearing was scheduled to start at 9:30. I  
8 just wanted to note for the record that we have been  
9 here since 9:30 but the parties are involved in  
10 negotiations in a different part of the room and I  
11 wanted to get on the record and state that.

12           We'll go through the preliminaries when the  
13 parties arrive but for now we're going to stay off the  
14 record for as long as it takes for them to reach some  
15 sort of negotiation or some sort of settlement. Thanks.

16           (Off the record.)

17           HEARING OFFICER KNITTLE: On the record.

18           Good morning, again. My name is, as it was  
19 before, John Knittle. It's approximately 10:10 a.m.  
20 now. I have attorneys for both parties here. This, as  
21 I stated before, is PCB 97-234, Antonio D.H. Nam versus  
22 Kikon Suh. Today's date is February 26th. We have with  
23 us here today Mr. Annunzio, representing Mr. Nam, and we  
24 also have Mr. Reiss, representing for the moment Kikon

1 Suh.

2 We have some special circumstances that wanted  
3 to outline before we get into today's activities.

4 This hearing was commenced on January 3, 2001.  
5 On January 2, 2001, the Respondent faxed all a motion to  
6 continue the hearing. Plaintiff did not object as long  
7 as certain circumstances were filed and it was granted.  
8 The circumstances were outlined in the January 19th,  
9 2001, Hearing Officer order, essentially the hearing,  
10 the complainant's case in chief hearing was held on that  
11 -- on January 3rd. At that point in time, the hearing  
12 was continued until today for the Respondent to present  
13 his case in chief and any cross-examination of the  
14 complainant as well as complainant's rebuttal case.

15 As I said, that is outlined in January 19th,  
16 2001, order.

17 I also stated that unless the board stayed this  
18 matter, we're going to proceed with the hearing here  
19 today. The board has not stayed this matter up until  
20 this point in time, however, we have come across a new  
21 set of circumstances that may alter that and I would  
22 like to address those in some preliminary matters, which  
23 we'll have right now. We do have some preliminary  
24 matters. Should I let Mr. Reiss take this, Mr.

1 Annunzio?

2 MR. ANNUNZIO: Yes.

3 HEARING OFFICER KNITTLE: Mr. Annunzio indicates  
4 yes.

5 Mr. Reiss, you have something you wanted to  
6 bring up?

7 MR. REISS: Yes.

8 For the record, my name is Jacob Reiss,  
9 R-E-I-S-S, and I'm acting as the attorney for Mr. Kikon  
10 Suh, S-U-H, who is the Respondent to this matter.

11 In preparing for the hearing this morning, it  
12 had been my intent to cross-examine Mr. Nam, the  
13 complainant, with respect to his ownership of the  
14 property and with respect to various tenants that had  
15 been on the property during the time that he owned it.  
16 In preparing for the cross-examination and in preparing  
17 for Mr. Suh's case in chief with respect to the terms of  
18 the Respondent's ownership of the property, I came  
19 across a property address reference that I have not come  
20 across before and it had escaped my recollection for  
21 quite sometime. That property address referenced was to  
22 a property at 3146 West Carmen, in which I had  
23 represented the Complainant, Mr. Nam, with respect to  
24 creation and negotiation of leases. As it turns out,

1 the property at 3146 West Carmen Avenue is the identical  
2 property as the property which is identified as the site  
3 and this complaint that is now pending before the board.  
4 That site being the property at 5101 East 17 North  
5 Kedzie in Chicago. It is on a corner of Kedzie and  
6 Carmen, and, unfortunately, those are one in the same  
7 properties.

8 I represented Mr. Nam with respect to building  
9 leases for both a Mr. Park and a Mr. Hyosik Park and  
10 also with respect to a lease with a Mr. -- apparently,  
11 it's the same name of the tenant on both a business that  
12 was going to be involved in some type of indoor golf  
13 range and also an auto repair business, both at that  
14 same site.

15 Consequently, since I represented Mr. Nam, I  
16 don't feel that I can ethically continue representing  
17 Mr. Suh in this action that was filed by Mr. Nam, and,  
18 unfortunately, I'm being placed in a position where I  
19 must withdraw my representation of Mr. Suh and I have  
20 not yet had a chance to speak with Mr. Suh about my  
21 withdrawal, of course I will speak with him as soon as I  
22 can contact him today.

23 HEARING OFFICER KNITTLE: Mr. Annunzio, do you  
24 have any comments?

1 MR. ANNUNZIO: No.

2 HEARING OFFICER KNITTLE: Mr. Reiss, you don't  
3 feel you can proceed with the hearing today?

4 MR. REISS: I do not feel that I can proceed  
5 given the fact that I am cognizant of information with  
6 respect to my representation, my prior representation of  
7 Mr. Nam that could be a conflict with my representation  
8 of Mr. Suh in this proceeding.

9 HEARING OFFICER KNITTLE: Let's go off record for  
10 a second.

11 (Off the record.)

12 HEARING OFFICER KNITTLE: We're back on the  
13 record.

14 In light of the circumstances and in light of  
15 the fact that Mr. Reiss is withdrawing, and, Mr. Reiss,  
16 you'll, of course, file the appropriate documentation  
17 with the board, I assume, correct?

18 MR. REISS: That's correct.

19 HEARING OFFICER KNITTLE: In light of that and  
20 the inequity that I think would result if Mr. Suh,  
21 working on the assumption that he would be represented  
22 by an attorney here today at this hearing, and not  
23 knowing -- he doesn't know, correct, Mr. Reiss --

24 MR. REISS: That's correct.

1 HEARING OFFICER KNITTLE: -- that there is a  
2 potential conflict and that you're not representing him,  
3 right?

4 MR. REISS: That's correct.

5 HEARING OFFICER KNITTLE: In light of that, I  
6 don't think we can go forward with the hearing here  
7 today and on my own motion I'm going to continue this  
8 hearing so today's hearing will be canceled and we've  
9 talked off the record about when we can hold the hearing  
10 and the hearing will be held on March 29th, 2001, at  
11 10:00 a.m. at this same facility and I'll put out the  
12 appropriate notice pursuant to 101.602 of the board's  
13 procedural regs and we'll send that notice to Mr. Suh.  
14 Mr. Suh may or may not obtain an additional attorney to  
15 represent him. It's going to be my recommendation to  
16 the board that the hearing go forward on March 29th,  
17 regardless of any motions to continue the hearing that  
18 come in in light of the fact that this case has been  
19 proceeding for awhile, however, I can make no guarantees  
20 that if a motion to continue comes in that the board  
21 won't continue it on their own.

22 So that being said, let's close this hearing for  
23 now and let's go off the record.



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1 HEARING OFFICER KNITTLE: We're back on the  
2 record.

3 I want to note for the record there have been no  
4 members of the public present to this point.

5 We'll go on the record again at 1:00 o'clock to  
6 make sure no one wants to provide public matter in this  
7 matter, for the interim, we'll recess this matter until  
8 1:00 o'clock.

9 (Off the record.)

10 HEARING OFFICER KNITTLE: Back on the record.

11 Good afternoon. It is now approximately 1:10  
12 p.m. No members of the public have shown up to provide  
13 public comment in this matter. We're going to close the  
14 hearing. I'm not going to make a credibility statement,  
15 no witnesses have testified today. Once again, I will  
16 not be issuing a hearing report after this hearing  
17 because the hearing is still ongoing, but I will be  
18 noticing up the hearing again to take place on March 29,  
19 2001, at 10:00 a.m. at the same location as today. I'll  
20 notice that pursuant to 101.602 as I did previously and  
21 that is all I have.

22 (Whereupon, were all the proceedings had in the  
23 above-entitled cause.)

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1 STATE OF ILLINOIS )  
 )SS:  
2 COUNTY OF DU PAGE )

3 I, ROSEMARIE LA MANTIA, being first duly sworn,  
4 on oath says that she is a court reporter doing business  
5 in the City of Chicago; that she reported in shorthand  
6 the proceedings given at the taking of said hearing, and  
7 that the foregoing is a true and correct transcript of  
8 her shorthand notes so taken as aforesaid, and contains  
9 all the proceedings given at said hearing.

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ROSEMARIE LA MANTIA, CSR  
License No. 84 - 2661

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Subscribed and sworn to before me  
this            day of            , 2001.

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Notary Public

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