

August 5, 1999

Respondents.

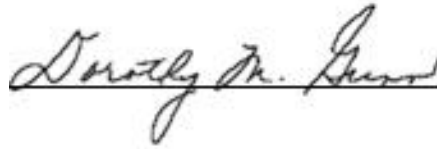
PCB 99-30
(Enforcement - Citizens, Noise)

Second, and more importantly, dismissal would not be warranted even if respondents had supplied an affidavit. In Shelton v. Crown (May 2, 1996), PCB 96-52, for example, the Board denied a motion to dismiss a nuisance noise complaint arising out of noise from an air conditioner. Respondents moved to dismiss on the grounds that complainants had moved away. The Board stated, “[a]lthough the complainants no longer reside next to the air conditioner, complainants may still be able to prove that an unreasonable interference occurred.” Shelton, PCB 96-52, slip op. at 2. Here too, respondents are potentially liable for past unreasonable interference, even if they have in fact eliminated the nuisance noise.

Kathleen M. Hennessy

K.M. Hennessey
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above concurring opinion was submitted on the 23rd day of August 1999.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board