

ILLINOIS POLLUTION CONTROL BOARD
August 3, 2023

PAUL CHRISTIAN PRATAPAS,)
)
 Complainant,)
)
 v.) PCB 23-79
) (Citizens Enforcement - Water)
 PULTE HOME COMPANY, LLC, a)
 Michigan corporation, and CITY OF)
 BATAVIA,)
)
 Respondents.)

ORDER OF THE BOARD (by J. Van Wie):

On December 15, 2022, Paul Christian Pratapas (Mr. Pratapas) filed a citizen’s complaint (Comp.) against Winding Creek by Pulte Homes (Pulte) and the City of Batavia (Batavia). The complaint concerns Pulte’s residential construction project located at the intersection of McKee Street and Deerpath Road in Batavia, Kane County.¹

On January 11, 2023, Pulte filed a motion that the Board not accept the complaint for failure to properly serve, as well as a motion to dismiss the complaint on the grounds that Mr. Pratapas alleges a wholly past violation (Pulte Mot.). On January 18, 2023, Batavia filed a motion to dismiss pursuant to 415 ILCS 5/31(d)(1)(2020) and 35 Ill. Adm. Code 101.202 (Batavia Mot.). On June 15, 2023, the Board directed the Clerk to correct the name of Pulte in the docket; struck three of Mr. Pratapas’ requests for relief; granted, in part, Batavia’s motion to dismiss; and granted Pulte’s motion not to accept the complaint, but directed Mr. Pratapas to file proof of service, as well as an amended complaint, within 30 days, or face dismissal of the complaint.

FAILURE TO FILE AMENDED COMPLAINT

On June 15, 2023, the Board directed Mr. Pratapas to file an amended complaint that cures the deficiencies in the complaint no later than July 17, 2023, or face dismissal of the complaint for failure to plead the violations and requests for relief with specificity. *See* 35 Ill. Adm. Code 101.202(b). Mr. Pratapas has failed to file an amended complaint. Because Mr. Pratapas failed to timely file an amended complaint, the Board dismisses this case and closes the docket.

¹ The complaint does not cite the specific address of the alleged violation. Rather, it states that the violation happened at the intersection of McKee Street and Deerpath Road in Batavia. Comp. at 2.

To the extent that the Board has not yet ruled on Batavia's motion to dismiss, because this case has now been dismissed, the Board denies Batavia's motion to dismiss as moot.

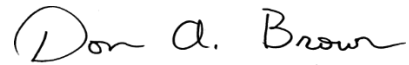
IT IS SO ORDERED.

Board Member M.D. Mankowski abstained.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2022); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Paul Christian Pratapas 1779 Kirby Parkway, Ste. 1, #92 Memphis, Tennessee, 38138 paulpratapas@gmail.com	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 E. Van Buren St., Suite 630 Chicago, Illinois 60605
Swanson, Martin & Bell Attn: Michael J. Maher Attn: Gregory M. Emry Attn: J.A. Koehler 330 North Wabash Ave., Ste. 3300 Chicago, Illinois 60611 mmaher@smbtrials.com gemry@smbtrials.com jkoehler@smbtrials.com	
Drendel & Jansons Law Group Attn: Roman J. Seckel, City Attorney 111 Flinn Street Batavia, Illinois 60510 rjs@batavialaw.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 3, 2023, by a vote of 3-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, circular initial "D".

Don A. Brown, Clerk
Illinois Pollution Control Board