

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PAUL CHRISTIAN PRATAPAS,	)	
	)	
Complainant,	)	
	)	IPCB 2023-067
v.	)	(Citizens Enforcement – Water)
	)	
LAKEWEST CUSTOM HOMES,	)	
	)	
Respondent.	)	

**NOTICE OF ELECTRONIC FILING**

TO: Paul Christian Pratapas  
1779 Kirby Parkway  
Ste 1, #92  
Memphis, TN 38138

Illinois Pollution Control Board  
James R. Thompson Center, Suite 11  
100 W Randolph St.  
Chicago, IL 60601

PLEASE TAKE NOTICE that on October 17, 2023, I electronically filed with the Clerk of the Pollution Control Board, Respondent's Motion for Summary Judgment, a copy of which is attached hereto and herewith served upon you.

s/James W. Ford  
James W. Ford  
Attorney for Respondent  
Ford & Britton, P.C.  
120 N LaSalle St., Suite 950  
Chicago, IL 60602  
[jford@fordbritton.com](mailto:jford@fordbritton.com)  
(312) 924-7500

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PAUL CHRISTIAN PRATAPAS,	)	
	)	
Complainant,	)	
	)	IPCB 2023-067
v.	)	(Citizens Enforcement – Water)
	)	
LAKEWEST CUSTOM HOMES,	)	
	)	
Respondent.	)	

**RESPONDENT’S MOTION FOR SUMMARY JUDGMENT**

NOW COMES the Respondent, Lakewest Custom Homes, Ltd., by and through its attorneys, Ford & Britton, PC, and pursuant to 735 ILCS 5/2-1005 and Section 101.516 of the Illinois Pollution Control Board’s Procedural Rules (35 Ill. Admin. Code 101.516), hereby moves for Summary Judgment in its favor and against Complainant, Paul Christian Pratapas, and in support thereof, states as follows:

**A. Procedural History**

Complainant filed a citizen’s complaint on December 1, 2022 alleging violations of 415 ILCS 5/12(a) and (d) because he saw a pipe in the snow on a construction site near a storm/sewer drainage system in February 2021. Ex. 1. The Board determined by its order of August 3, 2023 that parts of the complaint as to Respondent met the content requirements for the Board’s procedural rules and accepted the complaint as modified by its order for hearing. Ex. 2 (Boards 8.3.23 Order). The Board also ordered Respondent to file an answer to the complaint by October 2, 2023. Ex. 2. Respondent filed its answer and affirmative defense on September 27, 2023. Ex. 3 (Respondent’s Answer and Affirmative Defense).

**B. Statement of Uncontested Facts**

Respondent was constructing luxury townhomes in Naperville, Illinois near a storm/sewer

drainage system in February 2021. Ex. 4 (Jurjovec Affidavit), ¶ 3. Respondent's President, Daniel Jurjovec, received an email from Complainant on February 26, 2021 concerning a corrugated pipe in the snow and concerns about potential pollution. Ex. 4, ¶ 4. Complainant included two photographs. Id.

That same day, Jurjovec personally went to the construction site to investigate. Ex. 4, ¶ 5. He pulled the corrugated pipe off the snow and discovered that the pipe in question was a portion of unused storm sewer pipe that the sewer contractor left on site inside of the construction silt fence. Id. He took photographs, which he emailed to Complainant, along with the findings of his investigation. Id.

The section of unused storm sewer pipe was not and never had been connected or used in construction. Ex. 4, ¶ 6. During Jurjovec's investigation, he determined that the unused section of sewer pipe did not contain any contaminants. Ex. 4, ¶ 7. He further determined that it was not discharging or depositing contaminants into the environment and that it had not discharged or deposited contaminants into the environment. Id.

### **C. Standard of Review**

Section 101.516(b) of the Board's Procedural Rules provides:

(b) If the records, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law, the Board will enter summary judgment.

A party opposing a motion for summary judgment may not rest on its pleadings but must present a factual basis which would arguably entitle it to a judgment. *Land v. Board of Educ. Of City of Chicago*, 202 Ill.2d 414, 463 (2002). Inferences or conclusions drawn from the evidentiary material before the Board must be reasonable; courts are not required to adduce remote factual

possibilities in favor of the opponent of a motion for summary judgment. *James River Insurance Company v. TimCal, Inc.*, 2017 IL App (1<sup>st</sup>) 1621167 at ¶ 19. The use of summary judgment is encouraged under Illinois law to facilitate litigation and avoid unnecessary trials. *Jones v. Pneumo Abex, LLC*, 2019 IL 123895 at ¶ 31.

**D. Applicable Law**

Section 12 of the Environmental Protection Act provides that:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.
- ...
- (d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

**E. Legal Argument**

The undisputed facts demonstrate that Respondent did not cause, allow, or threaten the discharge of any contaminants into the environment to cause water pollution in Illinois. The undisputed facts also demonstrate that Respondent did not deposit any contaminants upon the land.

The mere presence of a corrugated pipe on the land that is not connected to anything, inside of a construction fence, is not a violation of the Act. There must be contaminants in the pipe or that the pipe facilitated or could facilitate to run through it. Here, there were no contaminants in the pipe, flowing through the pipe, or deposited by the pipe. The pipe was also not connected or adjacent to the sewer/drainage system. Therefore, there is no violation of 415 ILCS 5.12(a) or (d).

WHEREFORE, Respondent, Lakewest Custom Homes, Ltd., requests that the Board grant summary judgment in its favor and against Complainant, dismiss the subject complaint with prejudice, and for any other relief this Board deems just.

Respectfully submitted,

s/James W. Ford

James W. Ford

Attorney for Respondent

Ford & Britton, P.C.

120 N LaSalle St., Suite 950

Chicago, IL 60602

[jford@fordbritton.com](mailto:jford@fordbritton.com)

(312) 924-7500

IPCB 2023-067

Paul Christian Pratapas v. Lakewest Custom Homes and Rathbun Cservenyak & Kozol LLC and @Properties

Additional Criminal Code violation by respondents in their attempt at prohibiting me from engaging in my civil liberties and right to life liberty and the pursuit of happiness.

(720 ILCS 5/12-6) (from Ch. 38, par. 12-6)

Sec. 12-6. Intimidation.

(a) A person commits intimidation when, with intent to cause another to perform or to omit the performance of any act, he or she communicates to another, directly or indirectly by any means, a threat to perform without lawful authority any of the following acts:

- (1) Inflict physical harm on the person threatened or any other person or on property; or
- (2) Subject any person to physical confinement or restraint; or
- (3) Commit a felony or Class A misdemeanor; or
- (4) Accuse any person of an offense; or
- (5) Expose any person to hatred, contempt or ridicule; or
- (6) Take action as a public official against anyone or anything, or withhold official action, or cause such action or withholding; or
- (7) Bring about or continue a strike, boycott or other collective action.

(b) Sentence.

Intimidation is a Class 3 felony for which an offender may be sentenced to a term of imprisonment of not less than 2 years and not more than 10 years.

(Source: P.A. 96-1551, eff. 7-1-11.)

**Exhibit 1 to Respondent's MSJ**

Electronic Filing: Received, Clerk's Office 12/01/2022 \*\*PCB 2023-067\*\*

**FORMAL COMPLAINT**

**Before the Illinois Pollution Control Board**

	)	
	)	
PAUL CHRISTIAN PRATAPAS,	)	
an American	)	
	)	
<i>Complainant,</i>	)	
	)	
v.	)	PCB 20 -
	)	[For Board use only]
	)	
Lakewest Custom Homes,	)	
And	)	
<b>Rathbun Cservenyak &amp; Kozol LLC,</b>	)	
And	)	
@Properties;	)	
	)	
<i>Respondents</i>	)	
	)	

**1. Your Contact Information**

Name: Paul Christian Pratapas  
 Street Address: 1330 E. Chicago Ave.  
 Naperville  
 County: DuPage  
 State: IL  
 Phone Number: 630.210.1637

**2. Name and Address of Respondents**

Name: @Properties  
 Address: 1003 S Washington St  
 Naperville  
 County: DuPage  
 State: IL  
 Phone: 630.634.0700

Name: Lakewest Custom Homes  
 Dan Jurjovec

Address: ???  
 ???  
 County: DuPage  
 State: ???  
 Phone: 630.470.9442

Name: Rathbun Cservenyak & Kozol LLC

Address: 9450 Enterprise Dr  
 Mokena, IL 60448

State: Illinois

Address of Pollution: Intersection: East Chicago Ave and S Huffman St, Naperville

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**3. Describe the type of business or activity that you allege is causing or allowing pollution (e.g., manufacturing company, home repair shop) and give the address of the pollution source if different than the address above.**

Lakewest was constructing "Luxury" townhomes from @Properties on a VERY small patch of land adjacent to a tributary of a Water of the United States and/or the Naperville MS System. Rocks were only BMP not destroyed.

**4. List specific sections of the Environmental Protection Act, Board regulations, Board order, or permit that you allege have been or are being violated.**

1. 415 ILCS 5.12(a)
2. 415 ILCS 5/12 (d)

**5. Describe the type of pollution that you allege (e.g., air, odor, noise, water, sewer back-ups, hazardous waste) and the location of the alleged pollution. Be as specific as you reasonably can in describing the alleged pollution.**

Water. Complainant was walking down the street into downtown Naperville and noticed the pipe, snow, and complete lack of any BMPs while standing on the Chicago Avenue Bridge over the Water of the United States. There was however, a large, corrugated pipe sat on top of the snow at an angle leading from the build area into what I would guess is a tributary of a Water of the United States or the Naperville MS3/4. But Dan Jurjovec and Lakewest Custom Homes prevented any further discovery of information relevant to completing this Formal Complaint with the IPCB or anyone else.

Upon initial contact with the property owner @properties, Dan Jurjovec of Lakewest Custom Homes paid an attorney to send certified mail a threatening letter to what I assume is an address they searched and found online. Which is the address an Environmental Engineer with an MBA and who worked on the original Economic Impact Analysis of implementing The Clean Air Act, and my Mother. My name is totally unique and shows random things when searched online.

- 6. Describe the duration and frequency of the alleged pollution. Be as specific as you reasonably can about when you first noticed the alleged pollution, how frequently it occurs, and whether it is still continuing (include seasons of the year, dates, and times of day if known).

See included photographs

- 7. Describe any bad effects that you believe the alleged pollution has or has had on human health, on plant or animal life, on the environment, on the enjoyment of life or property, or on any lawful business or activity.

The negative environmental impacts of sediment laden water and other construction related pollutants is widely documented and the reason for the Corps Jurisdiction. The letter created serious problems for complainant for absolutely no reason and was an attempt at intimidating me away from exercising my right to petition the government and engage in citizen enforcement actions. On the main road into downtown next to a fire station.

- 8. Describe the relief that you seek from the Board.

- 1. Find that Respondent has violated The Act
- 2. Assess a maximum civil penalty against Respondent(s)
- 3. Investigation into any relevant inspection reports and/or contractor certifications
- 4. An order stating Waters of the United States must be protected via approved BMPS
- 5. An order prohibiting Lakewest Custom Homes from building any additional homes until their contact info and all relevant info is obtainable without conflict or endangerment to any citizens exercising their civil liberties
- 6. Provide case information to United States Postal Inspector Service for the purpose of determining if mail fraud charges are appropriate
- 7. An order requiring Dan Jurjovec to provide the board his credentials as a homebuilder
- 8. An order requiring case details be shared with the American Bar Association
- 9. A review of @property sites in the State of Illinois for compliance with Environmental and Safety Regulations
- 10. A no contact order prohibiting respondents from engaging in harassment against me and my Parents for engaging in our civil liberties

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- 9. Identify any identical or substantially similar case you know of brought before the Board or in another forum against this respondent for the same alleged pollution (note that you need not include any complaints made to the Illinois Environmental Protection Agency or any unit of local government).

No identical or substantially similar cases have been brought to The Board which I am aware of.

10. Paul Christian Pratas  
Complainant's Signature

CERTIFICATION

I, PAUL CHRISTIAN PRATAPAS, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

Paul Christian Pratas  
Complainant's Signature

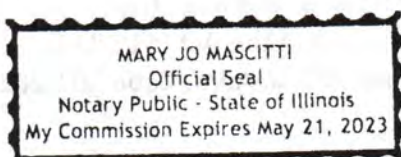
Subscribed to and sworn before me

this 1st day

of December, 2022

M. Mascitti  
Notary Public

My Commission Expires: 5/21/2023





**NOTICE OF FILING**

**Note to the Complainant:** This Notice of Filing must accompany the Formal Complaint and the Documentation of Service. Once you have completed the Notice of Filing, the Formal Complaint, and the Documentation of Service, you must file these three documents with the Board's Clerk and serve a copy of each document on each respondent.

Please take notice that today I, Paul Christian Pratapas, filed with the Clerk of the Illinois Pollution Control Board (Board) a Formal Complaint, a copy of which is served on you along with this Notice of Filing. You may be required to attend a hearing on a date set by the Board.

**Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney. 35 Ill. Adm. Code 103.204(f).**

*Paul Christian Pratapas*  
Complainant's Signature

Street: 1330 E Chicago Ave.

City/State/Zip: Naperville, IL 60540

Date: 12, 1, 2022

**INFORMATION FOR RESPONDENT RECEIVING FORMAL COMPLAINT**

The following information has been prepared by the Board for general informational purposes only and does not constitute legal advice or substitute for the provisions of any statute, rule, or regulation. Information about the Formal Complaint process before the Board is found in the Environmental Protection Act (Act) (415 ILCS 5) and the Board's procedural rules (35 Ill. Adm. Code 101, 103). These can be accessed on the Board's website (www.ipcb.state.il.us). The following is a summary of some of the most important points in the Act and the Board's procedural rules.

**Board Accepting Formal Complaint for Hearing; Motions**

The Board will not accept this Formal Complaint for hearing if the Board finds that it is either "duplicative" or "frivolous" within the meaning of Section 31(d)(1) of the Act (415 ILCS 5/31(d)(1)) and Section 101.202 of the Board's procedural rules (35 Ill. Adm. Code 101.202


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**Lakewest Custom Homes** <lakewest83... Fri, Feb 26, 2021, 12:51 PM ☆ ↩ ⋮  
to me, Erik, dan, lakewest836 ▾

Is this the pipe you are referring to?  
This is a section of storm sewer pipe the sewer contractor left on site inside of our silt fence.

I would suggest you refrain from posting inaccurate and slanderous comments on social media.

Dan Jurjovec  
Lakewest Custom Homes

 **Paul Pratapas** <paulpratapas@gmail.com> Tue, Mar 9, 2021, 8:19 AM ☆ ↩ ⋮  
to Erik, dan, lakewest836 ▾

Hi Erik,

I received a threatening letter from the Lawyers of Lakewest Custom Homes in regards to this thread

Be advised, just prior to receiving the letter the aforementioned site was discharging sediment into the creek as I predicted upon the snow melting. The silt fence has holes and was installed incorrectly. The entire bank along your construction site had sediment entering the creek which i took pictures of.

If any additional threatening letters are received they will be posted to local @property google pages with pictures of the pollution and a detailed review of your contractor behavior. As well as discussed with the Adam Corolla podcast who I have written bits for and his super attorney Mark Geragos.

I am also going to filing a complaint with DuPage County.

Regards,

Paul Pratapas

(definitions of the terms "duplicative" and "frivolous"). "Duplicative" means the complaint is identical or substantially similar to a case brought before the Board or another forum. See 35 Ill. Adm. Code 103.212(a) and item 10 of the Formal Complaint.

"Frivolous" means that the Formal Complaint seeks relief that the Board does not have the authority to grant or fails to state a cause of action upon which the Board can grant relief. For example, the Board has the authority to order a respondent to stop polluting and pay a civil penalty, to implement pollution abatement measures, or to perform a cleanup or reimburse cleanup costs. The Board does not have the authority, however, to award attorney fees to a citizen complainant. See 35 Ill. Adm. Code 103.212(a) and items 5 through 9 of the Formal Complaint.

If you believe that this Formal Complaint is duplicative or frivolous, you may file a motion with the Board, within 30 days after the date you received the complaint, requesting that the Board not accept the complaint for hearing. The motion must state the facts supporting your belief that the complaint is duplicative or frivolous. Memoranda, affidavits, and any other relevant documents may accompany the motion. See 35 Ill. Adm. Code 101.504, 103.212(b). If you need more than 30 days to file a motion alleging that the complaint is duplicative or frivolous, you must file a motion for an extension of time within 30 days after you received the complaint. A motion for an extension of time must state why you need more time and the amount of additional time you need. Timely filing a motion alleging that the Formal Complaint is duplicative or frivolous will stay the 60-day period for filing an Answer to the complaint. See 35 Ill. Adm. Code 103.204(e), 103.212(b); see also 35 Ill. Adm. Code 101.506 (generally, all motions to strike, dismiss, or challenge the sufficiency of any pleading must be filed within 30 days after service of the challenged document).

The party making a motion must "file" the motion with the Board's Clerk and "serve" a copy of the motion on each of the other parties to the proceeding. The Board's filing and service requirements are set forth in its procedural rules (35 Ill. Adm. Code 101.300, 101.302, 101.304), which are located on the Board's website ([pcb.illinois.gov](http://pcb.illinois.gov)).

If you do not file a motion with the Board within 30 days after the date on which you received the Formal Complaint, the Board may find that the complaint is not duplicative or frivolous and accept the case for hearing without any input from you. The Board will then assign a hearing officer who will contact you to schedule times for holding telephone status conferences and a hearing. See 35 Ill. Adm. Code 103.212(a).

#### **Answer to Complaint**

You have the right to file an Answer to this Formal Complaint within 60 days after you receive the complaint. If you timely file a motion alleging that the complaint is duplicative or frivolous, or a motion to strike, dismiss, or challenge the sufficiency of the complaint, then you may file an Answer within 60 days after the Board rules on your motion. See 35 Ill. Adm. Code 101.506, 103.204(d), (e), 103.212(b).

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Failing to file an Answer to the Formal Complaint within 60 days after you were served with the complaint may have severe consequences. Failure to timely file an Answer will mean that all allegations in the Formal Complaint will be taken as if you admitted them for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office, or an attorney. See 35 Ill. Adm. Code 103.204(f).

#### **Necessity of an Attorney**

Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. In addition, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, even if an individual is not an attorney, he or she is allowed to represent (1) himself or herself as an individual or (2) his or her unincorporated sole proprietorship. See 35 Ill. Adm. Code 101.400(a). Such an individual may nevertheless wish to have an attorney prepare an Answer and any motions or briefs and present a defense at hearing.

#### **Costs**

In defending against this Formal Complaint, you are responsible for your attorney fees, duplicating charges, travel expenses, witness fees, and any other costs that you or your attorney may incur. The Board requires no filing fee to file with the Board your Answer or any other document in the enforcement proceeding. The Board will pay its own hearing costs (e.g., hearing room rental, court reporting fees, hearing officer expenses).

If you have any questions, please contact the Clerk's Office at (312) 814-3461.

**DOCUMENTATION OF SERVICE**

**Note to the Complainant:** This Documentation of Service must accompany the Formal Complaint and the Notice of Filing. Once you have completed the Documentation of Service, the Formal Complaint, and the Notice of Filing, you must file these three documents with the Board's Clerk and serve a copy of each document on each respondent.

This form for the Documentation of Service is designed for use by a non-attorney and must be notarized, i.e., it is an "affidavit" of service. An attorney may modify the form for use as a "certificate" of service, which is not required to be notarized.

**Affidavit of Service**

I, the undersigned, on oath or affirmation, state that on the date shown below, I served copies of the attached Formal Complaint and Notice of Filing on the respondent at the address listed below by one of the following methods: [check only one—A, B, C, D, or E]

A. \_\_\_ U.S. Mail or third-party commercial carrier with the recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. Attached is the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature and showing the date of delivery as \_\_\_\_\_ [month/date], 20\_\_\_. [Attach the signed delivery confirmation showing the date of delivery.]

B.  U.S. Mail or third-party commercial carrier with a recipient's signature recorded or to be recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. However, the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature is not available to me at this time. On 12/23 [month/date], 2022, by the time of 5:00 AM/PM, at 77 55 WASHINGTON ST 1750 WOODEN AVE NAPERVILLE [address where you provided the documents to the U.S. Postal Service or the third-party commercial carrier], copies of the attached Formal Complaint and Notice of Filing were provided to the U.S. Postal Service or the third-party commercial carrier, with the respondent's address appearing on the envelope or package containing these documents, and with proper postage or delivery charge prepaid. [Within seven days after it becomes available to you, file with the Board's Clerk the delivery confirmation—containing the recipient's signature and showing the date of delivery—and identify the Formal Complaint to which that delivery confirmation corresponds.]

C. \_\_\_ Personal service and I made the personal delivery on \_\_\_\_\_ [month/date], 20\_\_\_, by the time of \_\_\_:\_\_\_ AM/PM.

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D. \_\_\_ Personal service and another person made the personal delivery. Attached is the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made the personal delivery, showing the date of delivery as \_\_\_\_\_ [month/date], 20\_\_\_. [Attach the other person's signed affidavit or declaration showing the date of delivery.]

E.  Personal service and I will make the personal delivery. However, the affidavit of service is not available to me currently.

**RESPONDENTS' ADDRESS:**

Name: Lakewest Custom Homes  
Street: Whereabouts Unknown  
City/State/Zip: Whereabouts Unknown

Name: Rathbun Cservenyak & Kozol LLC  
Street: 9450 Enterprise Dr  
City/State/Zip: Mokena, IL 60448

Name: @Properties  
Street: 1003 S Washington St  
Naperville, IL 60540

*Paul Christian Protopapas*  
Complainant's Signature

Street: 1330 E. Chicago Ave.

City, State, Zip Code: Naperville, IL 60540

Date: 12.1.2022

Subscribed to and sworn before me

this 1st day

of December, 2022

*M. Mascitti*  
Notary Public



My Commission Expires: 5/21/2023

ILLINOIS POLLUTION CONTROL BOARD

August 3, 2023

PAUL CHRISTIAN PRATAPAS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 23-67
	)	(Citizens Enforcement - Water)
LAKEWEST CUSTOM HOMES, RATHBUN)	)	
CSERVENYAK & KOZOL LLC, and	)	
@PROPERTIES,	)	
	)	
Respondents.	)	

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

On December 1, 2022, Paul Christian Pratapas (Mr. Pratapas) filed a citizen’s complaint (Comp.) against Lakewest Custom Homes (Homes), Rathbun Cservenyak & Kozol LLC (Rathbun), and @properties (@properties). The complaint concerns a construction site in Naperville, DuPage County. @properties filed a motion to dismiss the complaint. Neither Homes nor Rathbun responded to the complaint.

Below, the Board first summarizes the procedural history and addresses the service issues. The Board then addresses the pending motions regarding @properties. Finally, the Board discusses the complaint as to Homes, and provides procedural direction and its conclusion.

**PROCEDURAL HISTORY**

Paul Pratapas filed a citizen’s complaint on December 1, 2022. On December 28, 2022, @properties filed a motion to dismiss the complaint (Mot. to Dis.) on the grounds that service was not proper; for failure to state a cause of action upon which relief could be granted; and because there is other affirmative matter avoiding the legal effect of or defeating the claim. Neither Homes nor Rathbun filed a motion.

On June 1, 2023, the Board denied @properties’ motion to dismiss for failure to serve, but directed Mr. Pratapas to file the required proof of service of the complaint on the respondents within 30 days or face dismissal of the complaint for failure to properly serve. See 35 Ill. Adm. Code 101.304; see also 35 Ill Adm. Code 103.204(a). The Board reserved ruling on the remaining motions to dismiss for until service of the complaint was proper.

**PROOF OF SERVICE**

On June 1, 2023, the Board found that Mr. Pratapas’ service attempts on the respondents to date were not proper, and directed Mr. Pratapas to file the required proof of service of the

**Exhibit 2 to  
Respondent's MSJ**

complaint on the respondents no later than July 3, 2023, or face dismissal of the complaint for failure to serve. *See* 35 Ill. Adm. Code 101.302(b); 101.304.

A total of 238 days have elapsed since Mr. Pratapas initially filed the complaint with the Board. Additionally, the Board has already granted Mr. Pratapas an extension of 30 days to file the required proof of service. The Board notes that for this original complaint, Mr. Pratapas used a sample citizen complaint form, available on the Board's website, to file his complaint on December 1, 2022. The instructions accompanying that form include detailed steps on how to serve complaints on respondents in accordance with the Board's rules.<sup>1</sup> Under "Affidavit of Service" on the form, Mr. Pratapas checked that the complaint would be served on the respondents by "[p]ersonal service and [Mr. Pratapas] will make the personal delivery. However, the affidavit of service is not available to me currently." Comp. at 10. This form was signed and notarized.

On June 13, 2023, Mr. Pratapas filed proof of service by certified mail on Homes on December 29, 2022, accompanied by an affidavit of service on that date, which was signed and dated June 12, 2023. On June 15, 2023, Mr. Pratapas filed a "Motion to Dismiss @properties as Respondent" (Prat. Mot.). Mr. Pratapas did not file a proof of service on either Rathbun or @properties.

#### **Service on Rathbun**

On December 5, 2022, Mr. Pratapas filed an unnotarized "Proof of Service" indicating that he attempted personal service of the complaint on Rathbun on December 2, 2022 (Rath. Proof). In its June 1, 2023 order, the Board found the December 1, 2022 service attempt improper and directed Mr. Pratapas to correct service on all three respondents. To date, Mr. Pratapas has not filed the required proof of service on Rathbun. Because Mr. Pratapas has failed to timely file the required proof of service of the complaint on Rathbun, the Board dismisses Rathbun as a respondent from this case.

#### **Service on @properties**

On December 5, 2022, Mr. Pratapas filed an unnotarized "Proof of Service" indicating that he attempted personal service of the complaint on @properties on December 1, 2022 (@prop. Proof). On December 23, 2022, Mr. Pratapas again filed the same form describing the same service attempt.

On December 28, 2022, @properties filed a motion to dismiss the complaint for failure to properly serve @properties. In its June 1, 2023 order, the Board denied @properties' motion to dismiss for failure to serve, but found the December 1, 2022 service attempt improper and directed Mr. Pratapas to correct service on all three respondents. To date, Mr. Pratapas has not filed the required proof of service on @properties. Because Mr. Pratapas has failed to timely file

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<sup>1</sup> Illinois Pollution Control Board, *Formal Complaint Package*, PCB.ILLINOIS.GOV, <https://pcb.illinois.gov/documents/dsweb/Get/Document-87676/> (last visited July 13, 2023).

the required proof of service of the complaint on @properties, the Board dismisses @properties as a respondent from this case.

### **Service on Homes**

On December 5, 2022, Mr. Pratapas filed a “Proof of Service” indicating that he served the complaint on Homes by email. On December 23, 2022, Mr. Pratapas filed a certified mail receipt indicating that he sent something to Homes at 1309 N. Loomis St., Naperville, Illinois. On January 3, 2022, Mr. Pratapas filed a certified mail return receipt for something mailed to Homes at this address, signed received by Dan Jurjovic on December 29, 2022.

In its June 1, 2023 order, the Board found the January 3, 2023 “Proof of Service” insufficient and directed Mr. Pratapas to file the required proof of service on Homes by July 3, 2023. On June 13, 2023, Mr. Pratapas filed a signed delivery confirmation of the complaint on Homes, with a notice identifying the filed complaint to which the delivery confirmation corresponds, in accordance with the Board’s rules. *See* 35 Ill. Adm. Code 101.304(d)(2). Because Mr. Pratapas has timely filed the required proof of service on Homes, the Board turns to review of the complaint for content requirements.

### **Motions to Dismiss @properties**

On December 28, 2022, @properties filed a motion to dismiss the complaint. The motion argued that service was not proper on @properties; that the complaint fails to state a cause of action upon which relief could be granted; and that the complaint is barred by the affirmative matter that @properties was neither the builder, owner, nor operator of the site that was the subject of the complaint. *Mot. to Dis. At 5, 7-10; see 735 ILCS 5/2-619(a)(9) (2022)*. On June 1, 2023, the Board denied @properties’ motion to dismiss the complaint for failure to serve but directed Mr. Pratapas to file the required proof of service on the respondents by July 3, 2023, or face dismissal of the complaint for failure to serve. The Board reserved ruling on the remaining motions to dismiss until service was proper.

There are before the Board two pending motions, filed by the respondent and the complainant, respectively, concerning dismissal of the complaint as to @properties. Because service was never completed on @properties under the Board’s rules, the Board has no jurisdiction over @properties in this matter and denies as moot both motions to dismiss. 35 Ill. Adm. Code 101.304(b); 35 Ill. Adm. Code 101.400(a). The Board at this time makes no determination on the merits of the arguments in the motions to dismiss.

## **DISCUSSION**

### **Statutory and Regulatory Background**

“The Board shall have authority to conduct proceedings upon complaints charging violations of this Act, any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order.” 415 ILCS 5/5(d) (2020). Any person may bring an action before the Board to enforce Illinois’ environmental requirements. 415 ILCS 5/3.315,

31(d)(1) (2020); 35 Ill. Adm. Code 103.200. The complaint must contain information including a reference to the provision of the Act and regulations that the respondent is alleged to be violating. 415 ILCS 5/32(c)(1), (d)(1) (2020).

Within 30 days after being served with a complaint, a respondent may file a motion alleging that the complaint is duplicative or frivolous. 35 Ill. Adm. Code 103.212(b). “Unless the Board determines that [the] complaint is duplicative or frivolous, it shall schedule a hearing.” 415 ILCS 5/31(d)(1) (2022); 35 Ill. Adm. Code 103.212(a). A complaint is duplicative if it is “identical or substantially similar to one brought before the Board or another forum.” 35 Ill. Adm. Code 101.202. A complaint is frivolous if it requests “relief that the Board does not have the authority to grant” or “fails to state a cause of action upon which the Board can grant relief.” *Id.*

### **Complaint as to Homes**

In his complaint, Mr. Pratapas alleges that respondents violated Sections 12(a) and (d) of the Illinois Environmental Protection Act (Act) (415 ILCS 5/12(a), (d) (2020)). Comp. at 3. Section 12(a) provides in its entirety that no person shall “[c]ause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.” 415 ILCS 5/12(a) (2022). Section 12(d) provides in its entirety that no person shall “[d]eposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.” 415 ILCS 5/12(d) (2022).

Mr. Pratapas alleges that these violations were caused by Homes’ construction of townhomes on a “very small patch of land adjacent to a tributary of a Water of the United States and/or the Naperville MS System”. Comp. at 3. Mr. Pratapas described the alleged water pollution as “a large corrugated pipe sat on top of the snow at an angle leading from the build area into what [he] would guess is a tributary of a Water of the United States or the Naperville MS3/4”. *Id.*

The Board’s form complaint also asks the complainant to “[d]escribe the duration and frequency of the alleged pollution” as specifically as he or she reasonably can. Comp. at 3. Here, the complaint states only “[s]ee included photographs” but does not include any photographs. The complaint does include a copy of an email exchange between Homes and Mr. Pratapas regarding a storm sewer pipe and correspondence between Homes and Mr. Pratapas. *Id.* at 11. The emails are dated February 26, 2021 and March 9, 2021.

The complaint lists 10 different requests for relief. Specifically, the complaint requests that the Board:

1. Find that the respondents have violated the Act;
2. Assess a maximum civil penalty against the respondents;
3. Investigate into any relevant inspection reports and/or contractor certifications;

4. Issue an order stating Waters of the United States must be protected via approved BMPS [sic];
5. Issue an order prohibiting Homes from building any additional homes until their contact info and all relevant info is obtainable without conflict or endangerment to any citizens exercising their civil liberties;
6. Provide case information to United States Postal Inspector Service for the purpose of determining if mail fraud charges are appropriate;
7. Issue an order requiring Dan Jurjovec [sic] to provide the Board his credentials as a homebuilder;
8. Issue an order requiring case details be shared with the American Bar Association;
9. Perform a review of @property sites in the State of Illinois for compliance with Environmental and Safety Regulations; and
10. Issue a no contact order prohibiting respondents from engaging in harassment against complainant and his parents for engaging in their civil liberties.

Comp. at 3.

The Board can only grant relief that it has the authority to grant. Of the relief requested here, the Act gives the Board authority to find a violation of the Act. *See* 415 ILCS 5/33 (2022). Section 42(a) of the Act gives the Board authority to impose civil penalties for violations of the Act and Board regulations. 415 ILCS 5/42(a) (2022). The Board after finding a violation can order a respondent to develop and implement an abatement plan. *See, e.g., Gill v. CHS, Inc. – Carrollton Farmers Elevator*, PCB 16-68, slip op. at 3 (Jan. 21, 2016), citing *McDonagh and Fishbaum v. Michelin*, PCB 08-76, slip op. at 4 (July 10, 2008); *Pawlowski v. Johansen and Quinley, individually and d/b/a Benchwarmers Pub, Inc.*, PCB 99-82 (Apr. 4, 2000 and Sept. 21, 2000). If the complainant proves a violation, the Board can consider these requests for mitigation as an element of abatement under Section 33. *See* 415 ILCS 5/33 (2022). The Board has the authority to grant items 1, 2 and 4 of the requested relief and accepts the complaint as to these requests.

The Board does not have authority to grant items 3, 5, 6, 7, 9 and 10 of the requested relief. The Board is not the agency with authority to oversee construction activity, including contractor certifications, builder credentials, or construction site investigation. *See* 35 Ill. Adm. Code 101.106; *see also*, 415 ILCS 5/5 (2022). The Board does not have jurisdiction over violations of federal, state, or municipal criminal or civil code, including allegations of mail fraud. 35 Ill. Adm. Code 101.106; *see also*, 415 ILCS 5/5 (2022). The Board also does not have authority to issue injunctions. *See* 415 ILCS 5/33(b) (2022). Finally, the Board does not have the authority to perform reviews of property sites throughout the state to determine compliance. The Illinois Environmental Protection Agency has the duty to investigate alleged violations of the Act. 415 ILCS 5/30 (2022). The Board therefore lacks the authority to grant the relief requested in items 3, 5, 6, 7, 9 and 10. The Board finds the complaint is frivolous on these points and strikes these requests for relief. 35 Ill. Adm. Code 101.202.

Concerning publication of the case information, all the Board's determinations in enforcement actions are publicly available through the Clerk's Office On-Line (COOL).



Because anyone can access the information pertaining to this case at any time, item 8 of the requested relief is moot. The Board accordingly strikes request for relief number 8.

The Board finds that parts of the complaint as to Homes meet the content requirements of the Board's procedural rules. *See* 35 Ill. Adm. Code 103.204(c). The Board accepts the complaint – as modified by this order – for hearing. *See* 415 ILCS 5/31(d)(1) (2022); 35 Ill. Adm. Code 103.212(a). A respondent's failure to file an answer to a complaint within 60 days after receiving the complaint may have severe consequences. Generally, if a respondent fails by that deadline to file an answer specifically denying, or asserting insufficient knowledge to form a belief of, a material allegation in the complaint, the Board will consider that respondent to have admitted the allegation. *See* 35 Ill. Adm. Code 103.204(d). However, because the Board in this case did not accept the complaint until more than 60 days after it was filed, the Board grants Homes an additional 60 days to file an answer to the complaint. Homes has until October 2, 2023 to file an answer to the complaint.

### **PROCEDURAL DIRECTION**

The Board directs the hearing officer to proceed expeditiously to hearing. Upon its own motion or the motion of any party, the Board or the hearing officer may order that the hearing be held by videoconference. In deciding whether to hold the hearing by videoconference, factors that the Board or the hearing officer will consider include cost-effectiveness, efficiency, facility accommodations, witness availability, public interest, the parties' preferences, and the proceeding's complexity and contentiousness. *See* 35 Ill. Adm. Code 101.600(b), 103.108.

Among the hearing officer's responsibilities is the "duty . . . to ensure development of a clear, complete, and concise record for timely transmission to the Board." 35 Ill. Adm. Code 101.610. A complete record in an enforcement case thoroughly addresses, among other things, the appropriate remedy, if any, for the alleged violations, including any civil penalty. If a complainant proves an alleged violation, the Board considers the factors set forth in Sections 33(c) and 42(h) of the Act to fashion an appropriate remedy for the violation. *See* 415 ILCS 5/33(c), 42(h) (2022). Specifically, the Board considers the Section 33(c) factors in determining, first, what to order the respondent to do to correct an on-going violation, if any, and, second, whether to order the respondent to pay a civil penalty. The factors provided in Section 33(c) bear on the reasonableness of the circumstances surrounding the violation, such as the character and degree of any resulting interference with protecting public health, the technical practicability and economic reasonableness of compliance, and whether the respondent has subsequently eliminated the violation.

If, after considering the Section 33(c) factors, the Board decides to impose a civil penalty on the respondent, only then does the Board consider the Act's Section 42(h) factors in determining the appropriate amount of the civil penalty. Section 42(h) sets forth factors that may mitigate or aggravate the civil penalty amount. These factors include the following: the duration and gravity of the violation; whether the respondent showed due diligence in attempting to comply; any economic benefits that the respondent accrued from delaying compliance based upon the "lowest cost alternative for achieving compliance"; the need to deter further violations by the respondent and others similarly situated; and whether the respondent "voluntarily self-disclosed" the violation. 415 ILCS 5/42(h) (2022). Section 42(h) requires the Board to ensure

that the penalty is “at least as great as the economic benefits, if any, accrued by the respondent as a result of the violation, unless the Board finds that imposition of such penalty would result in an arbitrary or unreasonable financial hardship.” *Id.* Such penalty, however, “may be off-set in whole or in part pursuant to a supplemental environmental project agreed to by the complainant and the respondent.” *Id.*

Accordingly, the Board further directs the hearing officer to advise the parties that in summary judgment motions and responses, at hearing, and in briefs, each party should consider: (1) proposing a remedy for a violation, if any (including whether to impose a civil penalty), and supporting its position with facts and arguments that address any or all of the Section 33(c) factors; and (2) proposing a civil penalty, if any (including a specific total dollar amount and the portion of that amount attributable to the respondent’s economic benefit, if any, from delayed compliance), and supporting its position with facts and arguments that address any or all of the Section 42(h) factors. The Board also directs the hearing officer to advise the parties to address these issues in any stipulation and proposed settlement that may be filed with the Board.

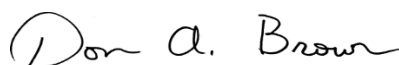
**ORDER**

1. The Board dismisses Rathbun as a respondent in this case.
2. The Board dismisses @properties as a respondent in this case.
3. The Board denies as moot @properties’ motion to dismiss for failure to state a cause of action and for other affirmative matter.
4. The Board denies as moot complainant’s motion to dismiss @properties from this case.
5. The Board strikes requests for relief numbered 3, 5, 6, 7, 9 and 10, and strikes as moot request for relief number 8. The Board accepts the complaint as to Homes as to requests for relief numbered 1, 2 and 4.
6. The Board directs the hearing officer to proceed to hearing on the complaint as modified by this Order.

IT IS SO ORDERED.

Board Member M.D. Mankowski abstained.

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.



Don A. Brown, Clerk  
Illinois Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PAUL CHRISTIAN PRATAPAS,	)	
	)	
Complainant,	)	
	)	IPCB 2023-067
v.	)	(Citizens Enforcement – Water)
	)	
LAKEWEST CUSTOM HOMES,	)	
	)	
Respondent.	)	

**NOTICE OF ELECTRONIC FILING**

TO: Paul Christian Pratapas  
1779 Kirby Parkway  
Ste 1, #92  
Memphis, TN 38138

Illinois Pollution Control Board  
James R. Thompson Center, Suite 11  
100 W Randolph St.  
Chicago, IL 60601

PLEASE TAKE NOTICE that on September 27, 2023, I electronically filed with the Clerk of the Pollution Control Board, Respondent’s Answer to Complaint, a copy of which is attached hereto and herewith served upon you.

s/James W. Ford  
James W. Ford  
Attorney for Respondent  
Ford & Britton, P.C.  
120 N LaSalle St., Suite 950  
Chicago, IL 60602  
[jford@fordbritton.com](mailto:jford@fordbritton.com)  
(312) 924-7500

**Exhibit 3 to  
Respondent's MSJ**

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PAUL CHRISTIAN PRATAPAS,	)	
	)	
Complainant,	)	
	)	IPCB 2023-067
v.	)	(Citizens Enforcement – Water)
	)	
LAKEWEST CUSTOM HOMES,	)	
	)	
Respondent.	)	

**ANSWER TO COMPLAINT**

NOW COMES the Respondent, Lakewest Custom Homes, Ltd., by and through its attorneys, Ford & Britton, PC, and in answer to Complainant’s Complaint, states as follows:

1. Your Contact Information: Paul Christian Pratapas, 1330 E. Chicago Ave, Naperville, DuPage, IL, 630-210-1637.

**RESPONSE:** Respondent admits that Paul Christian Pratapas is the complainant and that he reported his address as 1330 E Chicago Ave., Naperville, IL and his phone number as 630-210-1637 in the Complaint. Complainant provided a change of address thereafter to 1779 Kirby Parkway, Ste 1, #92, Memphis, TN 38138.

2. Name and Address of Respondent: Lakewest Custom Homes, Dan Jurjovec, DuPage, 630-470-9442.

**RESPONSE:** Respondent admits that it is headquartered in DuPage, Illinois and that it can be contacted through counsel.

Address of Pollution: Intersection East Chicago Ave and S Huffman St., Naperville IL.

**RESPONSE:** Respondent denies any pollution occurred at this location by it or its agents or employees.

3. Describe the type of business or activity that you allege is causing or allowing pollution (e.g. manufacturing company, home repair shop) and give the address of the pollution source if different than the address above. Lakewest was constructing “Luxury” townhomes for @Properties on a VERY small patch of land adjacent to a tributary of a Water of the United States and/or the Naperville MS System. Rocks were only BMP not destroyed.

**RESPONSE:** Respondent admits that it constructed luxury townhomes in Naperville, IL and that the construction occurred near a storm/sewer drainage system. Respondent admits that it used best management practices. Respondent denies all remaining allegations contained in paragraph 3.

4. List specific sections of the Environmental Protection Act, Board regulations, Board order, or permit that you allege have been or are being violated. 1. 415 ILCS 5.12(a). 2. 415 ILCS 5/12(d).

**RESPONSE:** Respondent denies that it violated 415 ILCS 5.12(a) or (d).

5. Describe the type of pollution that you allege (e.g. air, odor, noise, water, sewer back-ups, hazardous waste) and the location of the alleged pollution. Be as specific as you reasonably can in describing the alleged pollution.

Water. Complainant was walking down the street into downtown Naperville and noticed the pipe, snow, and complete lack of any BMPs while standing on the Chicago Avenue Bridge over the Water of the United States. There was however, a large corrugated pipe sat on top of the snow at an angle leading from the build area into what I would guess is a tributary of a Water of the United States or the Naperville MS3/4. But Dan Jurjovec and Lakewest homes prevented any further discovery of information relevant to completing this Formal Complaint with the IPCD or anyone else.

Upon initial contact with the property owner @Properties, Dan Jurjovec of Lakewest Custom Homes paid an attorney to send certified mail a threatening letter to what I assume is an address they searched and found online. Which is the address an Environmental Engineer with an MBA and who worked on the original Economic Impact Analysis of implementing the Clean Air Act, and my Mother. My name is totally unique and shows random things when searched online.

**RESPONSE:** Respondent denies the allegations contained in paragraph 5.

6. Describe the duration and frequency of the alleged pollution. Be as specific as you reasonably can about when you first noticed the alleged pollution, how frequently it occurs, and whether it is still continuing (including seasons of the year, dates, and time of day if known). See included photographs.

**RESPONSE:** Respondent denies any photographs were included with the Complaint it received and denies that there was any pollution.

7. Describe any bad effects that you believe the alleged pollution has or has had on human health, on plant or animal life, on the environment, on the enjoyment of life or property, or on any lawful business or activity. The negative environmental impacts of sediment laden water and other construction related pollutants is widely documented and the reason for the Corps Jurisdiction. The letter created serious problems for complainant for absolutely no reason and was an attempt at intimidating me away from exercising my right to petition the government and engage in citizen enforcement actions. On the main road into downtown next to a fire station.

**RESPONSE:** Respondent denies that any of its actions have had any bad effects on human health, on plant or animal life, on the environment, on the enjoyment of life or property, or on any lawful business or activity. Respondent denies any pollution.

8. Describe the relief that you seek from the Board.
  1. Find that Respondent has violated The Act
  2. Assess a maximum civil penalty against Respondent(s)
  3. Investigation into any relevant inspection reports and/or contractor certifications
  4. An order stating Waters of the United States must be protected via approved BMPS
  5. An order prohibiting Lakewest Custom Homes from building any additional homes until their contact info and all relevant info is obtainable without conflict or endangerment to any citizens exercising their civil liberties
  6. Provide case information to United States Postal Inspector Service for the purpose of determining if mail fraud charges are appropriate
  7. An order requiring Dan Jurjovec to provide the board his credentials as a homebuilder
  8. An order requiring case details to be shared with the America Bar Association
  9. A review of @property sites in the State of Illinois for compliance with Environmental and Safety Regulations
  10. A no contact order prohibiting respondents from engaging in harassment against me and my Parents for engaging in our civil liberties

**RESPONSE:** The relief sought in paragraph 8 consists of legal conclusions to which a response from Respondent is neither necessary nor appropriate. Further, the Board has already stricken requests for relief numbered 3, 5, 6, 7, 8, 9, and 10, per its August 3, 2023 Order. To the

extent an answer is appropriate, Respondent denies this paragraph, any subparagraphs included, and denies that Complainant is entitled to any relief from Respondent.

9. Identify any identical or substantially similar case you know of brought before the Board or in another forum against this respondent for the same alleged pollution (note that you need not include any complaints made to the Illinois Environmental Protection Agency or any unit of local government). no identical or substantially similar cases have been brought to The Board which I am aware of.

**RESPONSE:** Respondent is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9, and therefore, deny same. Based on Respondent's knowledge and belief, no such similar case has been brought.

WHEREFORE, Respondent, Lakewest Custom Homes, Ltd., requests that the Board enter an order in favor of Respondent and any such other relief as the Board deems appropriate.

**Affirmative Defense  
Failure to State of Claim**

In the alternative, without admitting any of Complainant's allegations that Respondent has denied, or otherwise contradicting its answer, and solely by way of affirmative and/or additional defense, Respondent alleges as follows:

1. Complainant does not assert any facts demonstrating that Respondent caused or allowed the discharge of any contaminants into the environment to cause water pollution in Illinois.
2. Complainant does not allege any facts to demonstrate that Respondent violated regulations or standards adopted by the Pollution Control Board.
3. Complainant does not allege any facts to demonstrate that Respondent deposited any contaminants upon the land.



4. Complainant only alleges that he saw a corrugated pipe on the land near water where townhomes were being constructed. He does not allege that the pipe was connected to anything, that any contaminants were in the pipe, or that contaminants ran through the pipe.

5. The mere presence of a corrugated pipe, not connected to anything, on land, does not demonstrate a violation of 415 ILCS 5.12(a) or (d) absent the allegation that Respondent was discharging or depositing contaminants into the environment through the pipe. Such factual allegations are missing. As such, Complainant's claims are barred for failure to state a claim upon which relief can be granted.

WHEREFORE, Respondent, Lakewest Custom Homes, Ltd., requests that the Board enter an order denying Complainant any and all of the relief he seeks herein, and such other and further relief to which Respondent is entitled.

Respectfully submitted,

s/James W. Ford  
James W. Ford  
Attorney for Respondent  
Ford & Britton, P.C.  
120 N LaSalle St., Suite 950  
Chicago, IL 60602  
[jford@fordbritton.com](mailto:jford@fordbritton.com)  
(312) 924-7500

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PAUL CHRISTIAN PRATAPAS,	)	
	)	
Complainant,	)	
	)	IPCB 2023-067
v.	)	(Citizens Enforcement – Water)
	)	
LAKEWEST CUSTOM HOMES,	)	
	)	
Respondent.	)	

**PROOF OF SERVICE**

NOW COMES the Respondent, Lakewest Custom Homes, Ltd., by and through its attorneys, Ford & Britton, PC, and pursuant to the Board’s procedural rules, provides proof of service of the attached Respondent’s Answer to Complaint and Notice of Electronic Filing upon

Paul Christian Pratapas  
1779 Kirby Parkway  
Ste 1, #92  
Memphis, TN 38138

Illinois Pollution Control Board  
James R. Thompson Center, Suite 11  
100 W Randolph St.  
Chicago, IL 60601

By having a true and correct copy affixed with proper postage placed in the U.S. Mail at Ford & Britton, P.C., 120 N LaSalle St., Suite 950, Chicago, IL 60602, at or before 5:00 p.m., on September 27, 2023.

s/James W. Ford  
James W. Ford  
Attorney for Respondent  
Ford & Britton, P.C.  
120 N LaSalle St., Suite 950  
Chicago, IL 60602  
[jford@fordbritton.com](mailto:jford@fordbritton.com)  
(312) 924-7500

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PAUL CHRISTIAN PRATAPAS,	)	
	)	
Complainant,	)	
	)	IPCB 2023-067
v.	)	(Citizens Enforcement – Water)
	)	
LAKEWEST CUSTOM HOMES,	)	
	)	
Respondent.	)	

**AFFIDAVIT OF DANIEL JURJOVEC**

I, Daniel Jurjovec, on oath, pursuant to 735 ILCS 5/1-109, state that if called to testify, I would competently testify as follows from my own personal knowledge:

1. I am over 18 years of age. I have personal knowledge of the facts and information referenced in this Affidavit.
2. I am the President of Lakewest Custom Homes.
3. Lakewest Custom Homes was constructing luxury townhomes in Naperville, Illinois near a storm/sewer drainage system in February 2021.
4. I received an email from Complainant on February 26, 2021 concerning a corrugated pipe in the snow and concerns about potential pollution. Complainant included two photographs. A true and accurate copy of said email, with photographs, is attached as Exhibit A.
5. That same day, I personally went to the construction site to investigate. I pulled the corrugated pipe off the snow, and I discovered that the pipe in question was a portion of unused storm sewer pipe that the sewer contractor left on site inside of the construction silt fence. I took photographs, which I emailed to Complainant, along with the findings of my investigation. A true and accurate copy of said email, with photographs, is attached as Exhibit B.
6. The section of unused storm sewer pipe was not and never had been connected or

**Exhibit 4 to  
Respondent's MSJ**

used in construction.

7. During my investigation, I determined that the unused section of sewer pipe did not contain any contaminants. I further determined that it was not discharging or depositing contaminants into the environment and that it had not discharged or deposited contaminants into the environment.

Further, affiant saith not.

I declare under penalty of perjury under the laws of the State of Illinois that the foregoing is true and correct.



---

Daniel Jurjovec

Executed on: 10 / 17 / 2023

---

Title	Affidavit for MSJ_for filing.pdf
File name	Affidavit%20for%20MSJ_for%20filing.pdf
Document ID	acb222f2e1673bda4282e7cf2a19540dac458769
Audit trail date format	MM / DD / YYYY
Status	● Signed

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This document was requested from [app.clio.com](https://app.clio.com)

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### Document History



SENT

**10 / 17 / 2023**

17:01:15 UTC

Sent for signature to Daniel Jurjovec

([djurjovec@comcast.net](mailto:djurjovec@comcast.net)) from [mgonnissen@fordbritton.com](mailto:mgonnissen@fordbritton.com)

IP: 168.93.151.250



VIEWED

**10 / 17 / 2023**

17:06:45 UTC

Viewed by Daniel Jurjovec ([djurjovec@comcast.net](mailto:djurjovec@comcast.net))

IP: 24.14.125.99



SIGNED

**10 / 17 / 2023**

17:08:28 UTC

Signed by Daniel Jurjovec ([djurjovec@comcast.net](mailto:djurjovec@comcast.net))

IP: 24.14.125.99



COMPLETED

**10 / 17 / 2023**

17:08:28 UTC

The document has been completed.

----- Original Message -----

From: Paul Pratapas <paulpratapas@gmail.com>

To: Erik Sachs <eriksachs@atproperties.com>

Cc: dan@lakewestcustomhomes.com, lakewest836@comcast.net

Date: 02/26/2021 11:12 AM CST

Subject: Re: Contact Form Submitted

You should be doing regular inspections of the site.

There are insufficient BMPs along the creek and someone has placed a pipe which will direct the snow melt into the aforementioned creek.

This site will be under regular public inspection by a certified stormwater inspector to assure all required BMPs are in place and no sediment laden water is discharged into the

**Exhibit A to  
Jurjovec Affidavit**



creek.



Paul Pratapas  
PeaPod Services, Inc.

On Feb 26, 2021, at 11:05 AM, Erik Sachs <eriksachs@atproperties.com> wrote:

Paul-

I have cc'd Lakewest Custom Homes, it sounds like you have some site condition concerns? If you want to pass along any photos, etc we can handle them directly.

Thanks,

**Erik Sachs** | Realtor, TEAM SACHS Leader  
**@properties**



**From:** developments@atproperties.com <developments@atproperties.com>  
**Sent:** Friday, February 26, 2021 11:00 AM  
**To:** Erik Sachs <eriksachs@atproperties.com>  
**Subject:** Contact Form Submitted

## Chicago Commons Contact Form Submission

**Name:** Paul Pratapas  
**Email:** paulpratapas@gmail.com  
**Subject:** Stormwater Violations

### Message:

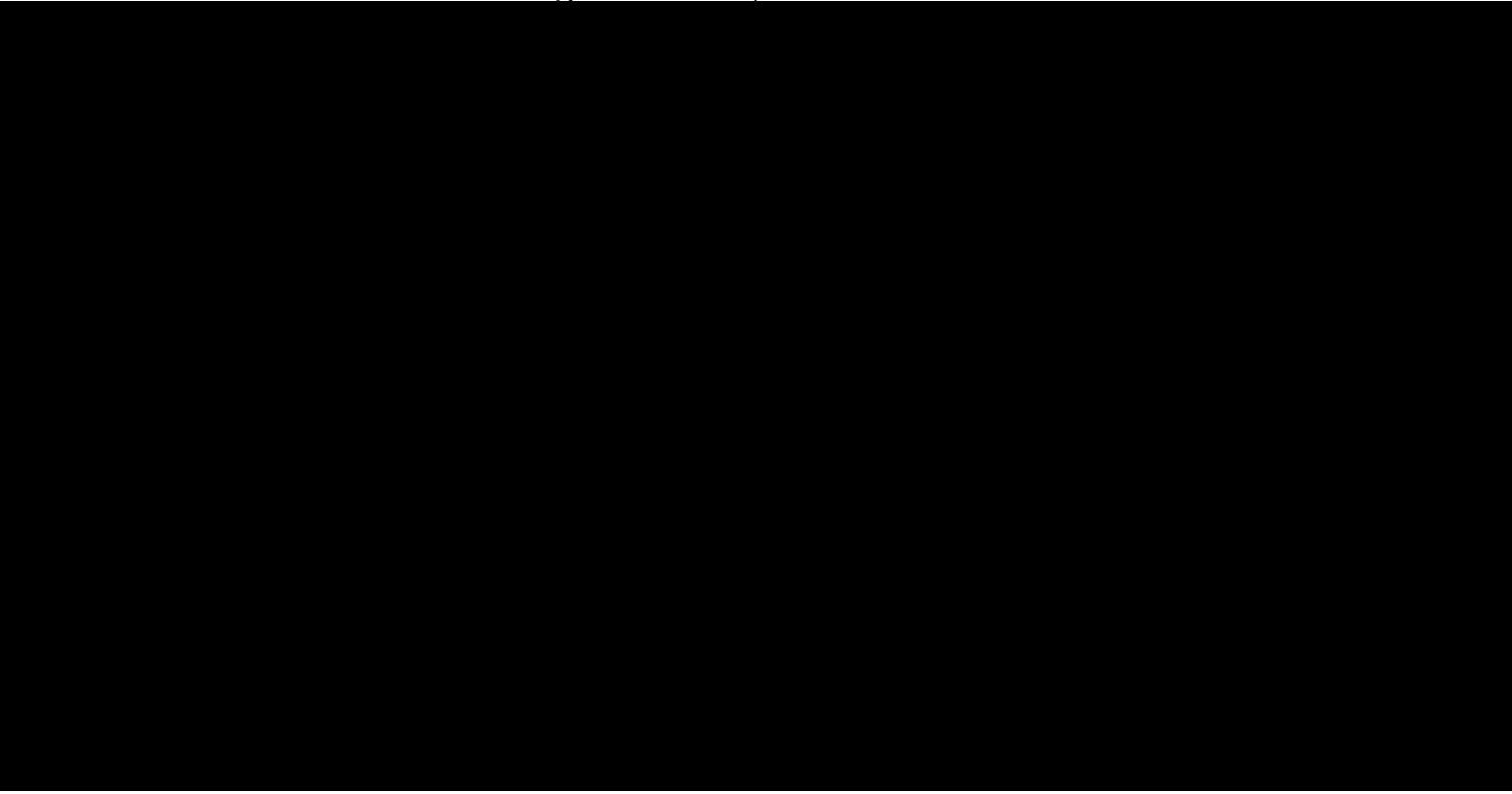
Your site is in violation of your clean water act permits and a report is going to be filed with the EPA with pictures of violations.



#### **IMPORTANT NOTICES**

**Never trust wiring instructions sent via email.** Cyber criminals are hacking email accounts and sending emails with fake wiring instructions. These emails are convincing and sophisticated. **Always** independently confirm wiring instructions in person or via a telephone call to a trusted and verified phone number. **Never** wire money without double-checking that the wiring instructions are correct. By opening this e-mail, you agree that you understand the risks of hacking and agree that At World Properties LLC shall have no liability for the wiring of funds.

This email message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, contact the sender via reply email and destroy all copies of the original message. Although At World Properties LLC takes reasonable measures to prevent the transmission of computer viruses, by opening this email you agree that At World Properties LLC shall have no liability for any loss or damage caused by this email.



----- Original Message -----

From: Lakewest Custom Homes <lakewest836@comcast.net>

To: Paul Pratapas <paulpratapas@gmail.com>

Cc: Erik Sachs <eriksachs@atproperties.com>, dan@lakewestcustomhomes.com,  
lakewest836@comcast.net

Date: 02/26/2021 12:50 PM CST

Subject: Re: Contact Form Submitted

Is this the pipe you are referring to?

This is a section of storm sewer pipe the sewer contractor left on site inside of our silt fence.

I would suggest you refrain from posting inaccurate and slanderous comments on social media.

Dan Jurjovec

Lakewest Custom Homes

**Exhibit B to  
Jurjovec Affidavit**







Sent from my iPhone

On Feb 26, 2021, at 11:12 AM, Paul Pratapas <paulpratapas@gmail.com> wrote:

You should be doing regular inspections of the site.

There are insufficient BMPs along the creek and someone has placed a pipe which will direct the snow melt into the aforementioned creek.

This site will be under regular public inspection by a certified stormwater inspector to assure all required BMPs are in place and no sediment laden water is discharged into the creek.

<image0.jpeg>

<image2.jpeg>

Paul Pratapas  
PeaPod Services, Inc.

On Feb 26, 2021, at 11:05 AM, Erik Sachs  
<eriksachs@atproperties.com> wrote:

Paul-

I have cc'd Lakewest Custom Homes, it sounds like you have some site condition concerns? If you want to pass along any photos, etc we can handle them directly.

Thanks,

**Erik Sachs** | Realtor, TEAM SACHS Leader  
**@properties**

**From:** developments@atproperties.com  
<developments@atproperties.com>  
**Sent:** Friday, February 26, 2021 11:00 AM  
**To:** Erik Sachs <eriksachs@atproperties.com>  
**Subject:** Contact Form Submitted

## Chicago Commons Contact Form Submission

**Name:** Paul Pratapas  
**Email:** paulpratapas@gmail.com  
**Subject:** Stormwater Violations

### Message:

Your site is in violation of your clean water act permits and a report is going to be filed with the EPA with pictures of violations.



### IMPORTANT NOTICES

**Never trust wiring instructions sent via email.** Cyber criminals are hacking email accounts and sending emails with fake wiring instructions. These emails are convincing and sophisticated. **Always** independently confirm wiring instructions in person or via a telephone call to a trusted and verified phone number. **Never** wire money without double-checking that the wiring instructions are correct. By opening this e-mail, you agree that you understand the risks of hacking and agree that At World Properties LLC shall have no liability for the wiring of funds.

## Electronic Filing: Received, Clerk's Office 10/17/2023

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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PAUL CHRISTIAN PRATAPAS,	)	
	)	
Complainant,	)	
	)	IPCB 2023-067
v.	)	(Citizens Enforcement – Water)
	)	
LAKEWEST CUSTOM HOMES,	)	
	)	
Respondent.	)	

**PROOF OF SERVICE**

NOW COMES the Respondent, Lakewest Custom Homes, Ltd., by and through its attorneys, Ford & Britton, PC, and pursuant to the Board’s procedural rules, provides proof of service of the attached Respondent’s Motion for Summary Judgment and Notice of Electronic Filing upon

Paul Christian Pratapas  
1779 Kirby Parkway  
Ste 1, #92  
Memphis, TN 38138

Illinois Pollution Control Board  
James R. Thompson Center, Suite 11  
100 W Randolph St.  
Chicago, IL 60601

By having a true and correct copy affixed with proper postage placed in the U.S. Mail at Ford & Britton, P.C., 120 N LaSalle St., Suite 950, Chicago, IL 60602, at or before 5:00 p.m., on October 17, 2023.

s/James W. Ford  
James W. Ford  
Attorney for Respondent  
Ford & Britton, P.C.  
120 N LaSalle St., Suite 950  
Chicago, IL 60602  
[jford@fordbritton.com](mailto:jford@fordbritton.com)  
(312) 924-7500