

ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

v.

CITY OF LASALLE, an Illinois municipal corporation,

Respondent.

PCB 24-33
(Enforcement – Water)

NOTICE OF FILING

Please take note that on February 1, 2024, I filed Respondent, City of LaSalle's Response to Request/Motion for Extended Media Coverage, a copy of which is attached and served upon you.

Respectfully submitted,

City of LaSalle, an Illinois municipal corporation

By: James A. McPhedran
James A. McPhedran of Meyers, Flowers,
Bruno, McPhedran & Herrmann, LLC,
One of its Attorneys

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PROOF OF SERVICE

I, James A. McPhedran, an attorney, do hereby certify that on February 1, 2024, I caused to be served on the individuals listed below by electronic mail, a true and correct copy of the attached Response to Request/Motion for Extended Media Coverage.

City of LaSalle, an Illinois municipal corporation

By: James A. McPhedran
James A. McPhedran of Meyers, Flowers,
Bruno, McPhedran & Herrmann, LLC,
One of its Attorneys

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RESPONSE TO REQUEST/MOTION FOR EXTENDED MEDIA COVERAGE

NOW COMES the City of LaSalle, an Illinois municipal corporation, and for its Response to the recently filed Request/Motion for Extended Media Coverage in regard to the upcoming hearing before the Hearing Officer of the Illinois Pollution Control Board, respectfully submits the following:

1. That as the City understands it, the requesting/moving party is Karen (Karry) King; with the request suggesting to be made pursuant to the provisions in regard to Extended Media Coverage in the Circuit Courts of Illinois, presumably pursuant to the 2016 policy set forth as the City understands by the Supreme Court of the State of Illinois, herein in regard to its potential requested application to the Pollution Control Board hearing proceedings in the instant case.

2. That first of all in this regard, we understand that LaSalle County Downtown Courthouse does not generally allow video and/or audio recording devices to even be brought into the Courthouse; nor generally is it allowed to record in general Court proceedings. Thus, to assist in facilitating the process in regard to the requesting party, Karen (Karry) King, (hereinafter “the requesting party”), and to endeavor to see that entry and use in the Courthouse would not be an issue if the Hearing Officer should grant the request, the City, through the undersigned counsel,

took the following steps in an effort to facilitate the process dependent upon the Hearing Officer's decision within the Hearing Officer's discretion in the instant case in the following manner:

A. That Lori Wakeman, LaSalle County Circuit Court Administrator, was contacted to see if in the exercise of the Pollution Control Board Hearing Officer's discretion a video or audio recording and/or still photographer were allowed in regard to Pollution Control Board hearing proceedings in the instant case all subject to whatever parameters and protections in regard to protecting the integrity of the process the Hearing Officer should see fit, would that be allowable in the Courthouse.

B. That the Court Administrator, Ms. Wakeman, advised the undersigned counsel that she would confer with the Honorable H. Chris Ryan, Chief Judge of the Thirteenth Judicial Circuit, to discern whether this could be allowable if deemed so by the Pollution Control Board Hearing Officer.

C. That following her conferring with the Honorable H. Chris Ryan, Chief Judge of the Thirteenth Judicial Circuit, it is the understanding of the undersigned counsel that if it is authorized by the Hearing Officer subject to whatever parameters the Hearing Officer deems appropriate that allowing a motion/request as to the Pollution Control Board hearing proceedings would not be an issue with the Courthouse.

D. That additionally, the Court Administrator asked that if this were deemed allowable by the Hearing Officer that she be advised of the same and that she be provided the name and/or names of the parties involved.

3. That in regard to the policy for extended media coverage believed to be relied upon by the requesting party, there are certain general provisions therein regarding protecting the integrity of the process, which should be a paramount interest to all parties.

4. Those provisions for consideration as established as the City understands by the Supreme Court include, but are not limited to the following under Section 1.2 General Provisions of the Rules:

Section 1.2

(e) There shall be no audio pickup or broadcast or recording of a conference in a court proceeding or in a court facility between attorneys and their clients, between co-counsel, between attorneys and opposing counsel, or attorneys and the judge.

(f) Audio or visual equipment authorized by these provisions shall not be operated during a recess in the court proceeding.

(g) The quantity and types of equipment permitted in the courtroom shall be subject to the discretion of the judge (herein the hearing officer) within the guidelines set out in this policy.

(h) Upon application of the media, the judge may permit the use of equipment or techniques at variance with the provisions in this policy, provided the variance request is included in the advance notice of coverage provided for in subsection 1.3(b). Objections, if any, shall be made as provided in subsection 1.3(c). Ruling upon a variance application shall be at the sole discretion of the judge. Variances may be allowed by the judge without advance application or notice if all counsel and parties consent to it.

(i) The judge may refuse, limit, amend or terminate photographic or electronic media coverage at any time during the proceedings in the event the judge finds that provisions established under this policy, or additional rules imposed by the judge, have been violated, or that substantial rights of individual participants or rights to a fair trial will be prejudiced by the manner of coverage if it is allowed to continue; or if it is necessary to

guarantee the safety of the courtroom, including any party, witness, juror or attendee of the proceeding.

(j) The rights of extended media coverage may be exercised only by the news media.

(k) A decision by a judge to deny, limit or terminate extended media coverage is not appealable.

5. That in the event the Hearing Officer deems it otherwise appropriate to allow an audio and video recording as requested, then the City of LaSalle does not and will not oppose the request in regard to video and audio recording of the hearing proceedings, subject to certain respectfully submitted requests set forth below herein, and additionally subject to the Hearing Officer using appropriate discretion in regard to setting reasonable parameters that may still allow the audio and video recording but will also respect and maintain the integrity of the hearing process.

6. That in the event the Hearing Officer within the exercise of his discretion allows the video and audio recording to be made of the hearing proceedings, the following respectfully suggested provisions are respectfully requested:

A. That again in the spirit of transparency in assisting the process, the City suggests that the Hearing Officer not require strict compliance of the requester, Ms. Karen (Karry) King in regard to demonstrating a foundation for the point provided in Section 1.2(j) of the Rules which would have otherwise required the extended media coverage to be exercised only by the news media which is described in definitions in Section 1.1(b) to include “established news gathering and reporting agencies . . .”. The City has no issue with waiving strict compliance with that section.

B. That the video and audio recordings be restricted to that which the City understands to be the purpose of the request in making the hearing proceedings as easily as possible to be available to the entirety of the public, yet the same be restricted to the hearing proceedings only and then subject to such other parameters as the Hearing Officer deems just and appropriate considering the other rule parameters including, but not limited to, those set forth above within paragraph 3 above. That there further be no video and/or other photography of any participants notes and/or attorneys notes, nor of any documents not marked and admitted in the hearing proceedings without the party's specific consent.

C. That the City be provided as soon as reasonably possible following the hearing proceedings with a complete unedited copy of any tape, audio recording, and/or digital file made in regard to the hearing proceedings. Any reasonable cost in making an additional copy will be reimbursed.

D. That it be additionally provided the allowance of video and/or recording would also be subject and in consideration to subpart F of the Illinois Pollution Control Board Rules in regard to hearings, evidence and discovery, specifically including Section 101.606 thereof in regard to amongst other provisions that the parties be vigilant to not have the recording be disruptive or detrimental to the development of an appropriate official record.

7. That indeed though the City as set forth above in spirit of additional transparency is not objecting to an audio and video recording subject to appropriate parameters as set forth above, and expected to be considered by the Hearing Officer, nonetheless, this is also notwithstanding the point that as previously suggested by both counsel for the Attorney general and by the City, the City believes that the additional official record expected to be kept by the

Hearing Officer and a certified court reporter, including a complete transcript which would include exhibits which would be available to any member of the public whether present at the hearing or not should in itself be a sufficient legal record.

8. That the City understands a central purpose of the request is to provide additional transparency and to make the complete hearing proceedings easily available for all members of the public whether personally present at the hearing or not.

9. That considering that purpose, it is questionable as to what would be the additional purpose for public benefit to have an additional still photographer. There is also a concern that a still photographer could, depending on movement within the courtroom also could be a potential distraction and potentially disruptive to the process. There could also be a further concern in regard to a still photographer taking photographs outside the parameters of the guidelines which the City understands were set forth by the Supreme Court in regard to limiting the additional media coverage in the courtroom to the hearing proceedings themselves.

Respectfully submitted,

City of LaSalle, an Illinois municipal corporation

By: James A. McPhedran
James A. McPhedran of Meyers, Flowers,
Bruno, McPhedran & Herrmann, LLC,
One of its Attorneys

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