

ILLINOIS POLLUTION CONTROL BOARD  
July 11, 2024

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 24-11
	)	(IEPA No. 124-24-AC)
FU ZANG LONG, LLC,	)	(Administrative Citation)
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by B.F. Currie):

On May 28, 2024, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Fu Zang Long, LLC (Fu Zang Long). *See* 415 ILCS 5/31.1 (2022); 35 Ill. Adm. Code 101.300(b), 108.200(b)(3). The administrative citation concerns Fu Zang Long’s facility located at 201 Wallace Avenue in Champaign, Champaign County. The property is commonly known to the Agency as the “Champaign/Fu Zang Long LLC” site and is designated with Site Code No. 0190105308.

On June 25, 2024, the Board received a petition for review filed by Tahir Malik. On June 26, 2024, Tahir Malik filed a motion to intervene to contest the citation (Mot.). IEPA responded to the motion (IEPA Resp.) on June 27, 2024.

For the reasons below, the Board declines to accept the petition filed by Tahir Malik and denies Tahir Malik’s motion to intervene. For the reasons below, the Board finds that Fu Zang Long violated the Environmental Protection Act (Act) (415 ILCS 5 (2022)) and orders Fu Zang Long to pay \$1,500 in statutory civil penalties.

**BACKGROUND**

Under the Act, an administrative citation is an expedited enforcement action brought before the Board seeking civil penalties that are fixed by statute. Administrative citations may be filed only by IEPA or, if IEPA has delegated the authority, by a unit of local government, and only for limited types of alleged violations. *See* 415 ILCS 5/21(o), 21(p), 22.51, 22.51a, 31.1(c), 42(b)(4), 42(b)(4-5), 55(k) (2022); 35 Ill. Adm. Code 108. “Whenever Agency personnel . . . determine that *any person* has violated any provision of subsection (o) or (p) of Section 21, . . . the Agency . . . may issue and serve an administrative citation *on such person* within not more than 60 days after the date of the observed violation. Each such citation issued shall be served upon *the person named therein or such person’s authorized agent* for service of process.” 415 ILCS 5/31.1(b) (2022) (emphasis added).

Among other information, the citation must include “instruction for contesting the administrative citation findings pursuant to this Section, including notification that *the person* has 35 days within which to file a petition for review before the Board to contest the administrative citation.” 415 ILCS 5/31.1(b)(4) (2022) (emphasis added); *see* 35 Ill. Adm. Code 108.204(b).

In this case, IEPA alleges that on April 9, 2024, Fu Zang Long violated Section 55(k)(1) of the Act (415 ILCS 5/55(k)(1) (2022)) by causing or allowing water to accumulate in used or waste tires. IEPA asks the Board to impose the statutory \$1,500 civil penalty per violation on Fu Zang Long, for a total civil penalty of \$1,500. As required, IEPA served Fu Zang Long with the administrative citation on May 30, 2024, which is within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2022); *see also* 35 Ill. Adm. Code 101.300(c), 108.200(b)(1).

### **MALIK’S PETITION FOR REVIEW**

On June 25, 2024, Tahir Malik filed a petition for review contesting “the Administrative Citation *issued to the property* located at 201 Wallace Avenue, Champaign.” Pet at. 1. Malik’s petition alleges that on May 28, 2024 “IEPA issued a citation *to the Property* located at Fu Zang Long.” *Id.* at 3. He further alleges that “IEPA assessed a \$1,500.00 civil penalty *to the Property* for the alleged violations of the Act.” *Id.*

The petition acknowledges that Fu Zang Long currently owns the property. Malik alleges that he “is the contract purchaser of the Property” and operates a vehicle business there. *Id.* He alleges that tires found at the property were dumped there by another person. *Id.* at 2. He further alleges that he “neither caused intentionally allowed the open dumping of used or waste tires, nor allowed water to accumulate in them.” *Id.* at 3. Finally, Malik states that on June 13, 2024, he paid to have tires properly removed and recycled. *Id.*, citing Exh. A.

The petition concludes by requesting that the Board grant his petition for review of the citation and hold a hearing “to determine whether the civil penalty can be removed.” *Id.* The Board notes that it has not to date assessed a penalty in this proceeding.

Under the Board’s rules, the *recipient* of the citation may file a petition to contest it. 35 Ill. Adm. Code 108.204(a) (emphasis added); *see* 415 ILCS 5/31.1(b) (2022). The Board agrees with IEPA that the recipient of this citation is the named respondent Fu Zang Long and not “the property” as Malik alleges or to Malik personally. *See* IEPA Resp. at 2. Because Malik is not the recipient of the citation, he is not authorized by the Act or the Board’s rule to file a petition for review in this matter, regardless of his relationship to the property at issue. *See id.*

For these reasons, the Board declines to accept the petition for review filed by Tahir Malik. The Board notes IEPA’s statement that, if the named respondent Fu Zang Long does not timely contest the citation, then “the Board has the statutory obligation to find violations and impose the appropriate statutory penalty against *the person named in the AC.*” IEPA Resp. at 2 (emphasis added), citing 415 ILCS 5/31.1(d)(1) (2022).

### MALIK'S MOTION TO INTERVENE

The Board's rules provide that, subject to conditions including timeliness, "the Board will permit any person to intervene in any adjudicatory proceeding if: (1) [t]he person has an unconditional statutory right to intervene in the proceeding; or (2) [i]t may be necessary to impose a condition on the person." 35 Ill. Adm. Code 101.402(c).

Subject to the same conditions addressing timeliness, "the Board may permit any person to intervene in an adjudicatory proceeding if: (1) [t]he person has a conditional statutory right to intervene in the proceeding; (2) [t]he persons may be materially prejudiced absent intervention; or (3) [t]he person is so situated that the person may be adversely affects by a final Board order." 35 Ill. Adm. 101.402(d)

On June 26, 2024, Tahir Malik filed a motion "to intervene in order to contest the Administrative Citation *issued to the property* located at 201 Wallace Avenue, Champaign." Mot. at 1 (emphasis in original). Malik acknowledges that Fu Zang Long currently owns the property. He further states that he "is the contract purchaser of the Property" and operates a vehicle business there. *Id.* He asserts that "IEPA *issued a citation to the Property* owned in title by Fu Zang Long, LLC for the alleged violations of the Act." *Id.* at 2 (emphasis added).

The Board notes that Malik's motion does not argue that he has "an unconditional statutory right to intervene in the proceeding." 35 Ill. Adm. Code 101.402(c). The Board agrees with IEPA that the citation was issued to the named respondent Fu Zang Long and not to the property as asserted in Malik' motion or to Malik personally. IEPA Resp. at 1. IEPA argues that Malik acknowledges that Fu Zang Long owns the property and does not argue that IEPA improperly issued the citation to Fu Zang Long. *See id.* at 3. As noted above, if the named respondent Fu Zang Long does not timely contest the citation, then the Board is obligated by the Act to find violations and impose the appropriate statutory penalty against *the person named in the AC.*" IEPA Resp. at 2 (emphasis added), citing 415 ILCS 5/31.1(d)(1) (2022). The Board concludes that it is not required to permit Malik to intervene under 35 Ill. Adm. Code 101.402(c).

Malik argues that the citation issued to Fu Zang Long adversely impacts him because it concerns the property while he operated a business there and was its contract purchaser and because it may result in a lien on the property. Mot. at 2. He argues that the Board should grant his motion to intervene to represent himself in the matter and avoid prejudice that may result in his absence from it. *Id.*

As noted above, IEPA issued the citation to the named respondent Fu Zang Long and not to the property or to Malik personally. Based on these factors, IEPA argues that this citation does not have "any direct effect on the property that Malik is purchasing, on Malik as an individual, or on Malik's business." IEPA Resp. at 3. The Board is not persuaded that Malik would "be materially prejudiced absent intervention" or is situated so that he "may be adversely affected by a final Board order." 35 Ill. Adm. Code 101.402(d). The Board also notes IEPA's argument that Malik's motion asserts facts not of record without the required supporting certification. *Id.*, citing 35 Ill. Adm. Code 101.504. Based on the factors, the Board concludes

that Malik's motion does not present grounds for allowing intervention, and the Board denies his motion.

### **BOARD FINDING OF VIOLATION**

To contest an administrative citation, Fu Zang Long must have filed a petition with the Board no later than 35 days after being served with the administrative citation. 415 ILCS 5/31.1(b)(4) (2022). "If the person named in the administrative citation fails to petition the Board for review within 35 days from the date of service, the Board shall adopt a final order, which shall include the administrative citation and findings of violation alleged in the citations, and shall impose the penalty" in Section 42(b)(4-5) of the Act. 415 ILCS 31.1(d)(1) (2022); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by Friday, July 5, 2024. *See* 35 Ill Adm. Code 101.300(a). Fu Zang Long failed to timely file a petition. Accordingly, the Board finds that Fu Zang Long violated Section 55(k)(1) of the Act.

The civil penalty for violating any provision of 55(k) is \$1,500 for each violation, except that the penalty amount is \$3,000 for each violation that is the person's second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5) (2022); 35 Ill. Adm. Code 108.500(a). Because there is one violation of Section 55(k) and no indication in the record that this is a second or subsequent adjudicated violation, the total civil penalty is \$1,500. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

This opinion constitutes the Board's finding of fact and conclusions of law.

### **ORDER**

1. The Board finds that Fu Zang Long, LLC violated Section 55(k)(1) of the Environmental Protection Act (415 ILCS 5/55(k)(1) (2022)).
2. Fu Zang Long, LLC must pay a civil penalty of \$1,500 no later than Monday, August 26, 2024, which is the first business day following the 30th day after the date of this order. Fu Zang Long, LLC must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number and case name must appear on the certified check or money order.
3. Fu Zang Long, LLC must send the certified check or money order to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

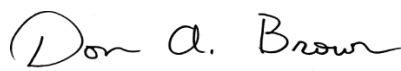
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2022)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2022)).
5. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

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.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Illinois Environmental Protection Agency Attn: Michelle Ryan, Assistant Counsel 1021 North Grand Avenue East PO Box 19276 Springfield, Illinois 62794-9276	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 East Van Buren Street, Suite 630 Chicago, Illinois 60605 don.brown@illinois.gov
Fu Zang Long, LLC Attn: Xiao Zhang, Registered Agent 305 West Chestnut Bondville, Illinois 61815	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 11, 2024, by a vote of 4-0.



Don A. Brown, Clerk  
 Illinois Pollution Control Board