

ILLINOIS POLLUTION CONTROL BOARD
February 20, 1997

THOMAS CORNING AND KIMBERLY CORNING,)	
)	
Complainants,)	PCB 96-69
)	(Enforcement - Citizens, Noise)
v.)	
)	
THURELA'S, PAM AND ARTHUR HEGJI AS OWNERS,)	
)	
Respondents.)	

STEVEN KAISER OF THE JEFF DIVER GROUP APPEARED ON BEHALF OF THE COMPLAINANTS;

ELLEN PARTRIDGE OF PARTRIDGE & NIRO APPEARED ON BEHALF OF THE RESPONDENTS.

OPINION AND ORDER OF THE BOARD (by J. Yi):

This matter comes before the Board on a complaint filed on September 20, 1995 by Thomas and Kimberly Corning (complainants) against Pam and Arthur Hegji (respondents) as owners of Thurela's dog kennel. The complaint alleges that respondents violated Section 23 and 24 of the Environmental Protection Act (Act) (415 ILCS 5/23 and 24 (1994)) and the Board's regulations at 35 Ill. Adm. Code 900.102, 900.103, and 900.104.

The Cornings and Hegjis reside on neighboring properties in Wauconda, Illinois. (Tr. at 7.) The Hegjis operate a kennel on their property where they raise German Shepherds for pleasure, showing, and sale. (Tr. at 7.) The complainants maintain that the barking of respondents' dogs unreasonably interferes with complainants' use and enjoyment of their property.

Greg Zak, noise specialist for the Illinois Environmental Protection Agency (Agency), inspected respondents' property. (Tr. at 9.) He suggested some structural changes to abate the noise and also some changes to the way the animals were handled to decrease the barking. (Tr. at 9.) Considering these suggestions, the parties were able to enter into an agreed stipulation and proposal for settlement. The parties presented the settlement agreement at hearing as required by 35 Ill. Adm. Code 103.180. Hearing was held before hearing officer June Edvenson on January 3, 1997 in Lake Zurich, Illinois. No members of the public other than the parties involved were present at the hearing.

The stipulation sets forth facts relating to the nature, operations, and circumstances surrounding the claimed violations and was entered as Exhibit 1 at the hearing. Exhibit A, which is attached to the stipulation and settlement, is a sketch of the property labeling different structures and areas of the property. The respondents deny that they have violated any provisions of the Act, but desire to settle in good faith the claims alleged by the complainants in their complaint.

The Board finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. This agreement in no way affects respondents' responsibility to comply with any federal, state or local regulations including, but not limited to, the Act and the Board's regulations.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

The Board hereby accepts the stipulation and settlement agreement executed by Thomas and Kimberly Corning and Pam and Arthur Hegji, concerning the facility located at 23594 West Milton Road, Wauconda, Illinois. The stipulation and settlement are incorporated by reference as though fully set forth herein.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the ____ day of _____, 1997, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board