

ILLINOIS POLLUTION CONTROL BOARD

June 9, 1977

GOVERNOR'S MEDICAL CENTER GROUP, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 77-94  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondent. )

OPINION AND ORDER OF THE BOARD (by Mr. Zeitlin):

This matter is before the Board on a Petition for Variance filed on March 25, 1977, seeking relief from §39 of the Environmental Protection Act (Act) and Rules 604(b), 701, 951, 952, and 962 of Chapter 3: Water Pollution, of this Board's Rules and Regulations. Petitioner also requested (if deemed necessary by the Board) Variance from §§ 12(a) and 12(c) of the Act and from Rule 404(c) of Chapter 3. The Variance is requested to allow the connection of a medical office building to sewers tributary to the Village of Homewood sewage treatment plant (STP).

A Motion for Decision Without Hearing was filed by Petitioner with its original Variance Petition. Petitioner also filed a Motion to Strike the Environmental Protection Agency's (Agency) formal Objection, filed March 31, 1977. An Interim Order was entered by the Board on April 14, 1977, denying Petitioner's Motion to Strike and setting the matter for hearing. Ill. Rev. Stat., Ch. 111-1/2, §1037 (1975).

Additional Interim Orders were entered by the Board on April 28, 1977, granting the Agency's Motion for Extension of Time, and on May 12, 1977, granting the Agency's Motion to Withdraw its Objection. The Agency's Recommendation was filed on April 29, 1977. No hearing was held.

Petitioner in this matter is a partnership of seven doctors associated for the construction of a medical center consisting of 20 doctors' offices, laboratory, and pharmaceutical facilities. Petitioner commenced planning, obtained funding, secured necessary zoning changes, and applied for all permits prior to Respondent Agency's April, 1976, determination that the Village of Homewood STP must be placed on Restricted Status. The Agency based its determination as to Restricted Status on the belief that the Village STP was operating with a tributary wasteload of 105% of design capacity. The plant discharge also exceeds applicable

standards for BOD<sub>5</sub> and suspended solids; 1976 BOD<sub>5</sub> discharges (30-day average) ranged from 8.9 mg/l to 18.5 mg/l, and SS effluents during the same year (also 30-day averages) varied from 12.3 mg/l to 38.2 mg/l. (However, only one 30-day average during 1976 exceeded 22.6 mg/l SS, with most averages in the range of 13 mg/l - 18 mg/l.) Appendix I, Petition.

In addition to financial hardship preceding the imposition of Restricted Status, the Petition states that the Village of Homewood may have misled Petitioners into making additional expenditures subsequent to the imposition of Restricted Status. The Petition alleges that a representative of the Village led Petitioner to believe that the Restricted Status problem could be speedily resolved, and the Village accordingly issued Petitioner the necessary building permits (although without permission to tap into the sewer system).

Accordingly, Petitioners commenced construction of the medical center, which is now 30% complete.

The Petition also alleges as hardship that there is a significant shortage of primary care medical doctors in the area to be served by the new center. The Village of Homewood and the adjacent villages of Glenwood, Hazelcrest, and Country Club Hills, with a population of 57,000, have only 23 physicians, seven of whom are primary care physicians. The Agency does not dispute these allegations.

Balanced against the alleged hardship to Petitioner and the community would be the addition of approximately 2200 gallons per day to the STP's present flows of 2.85 to 3.10 mgd, (Rec., ¶4). Further minimizing any environmental damage if the Variance were granted is the fact that a recent fire destroyed the Washington Park Racetrack, which previously contributed significant sewage flows to the Homewood STP.

Balancing these factors, we feel that a Variance from Rule 962 is warranted. We agree with the Agency, however, that the additional Variances requested by Petitioner are not warranted under these circumstances. Rule 604(b) is definitional, and the remaining Variances requested are unnecessary where a Variance from Rule 962 has been granted. As recommended by the Agency, we find that the Petition in this matter does not justify Variance from the permit requirements of Rule 951 and 952 and shall not grant Variance from those Rules. (Inasmuch as Variance from Rules 951 and 952 is not granted, the Agency's Recommendation that any Variance be conditioned upon application for all appropriate permits, need not be accepted; without Variance from those Rules, Petitioner must comply with them.)

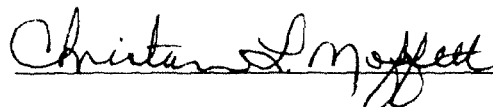
Finally, both Petitioner and Respondent make reference to an outstanding Enforcement action, EPA v. Village of Homewood, PCB 76-320; both parties allege that current settlement negotiations in that case will bear on the environmental result of a Variance grant in this case. We find that a Variance is warranted upon the facts of this case only, and choose to deal separately with PCB 76-320.

This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that Petitioner Governor's Medical Center Group be granted Variance from Rule 962 of Chapter 3: Water Pollution, to allow the connection of Petitioner's medical center to sewers tributary to the Village of Homewood sewage treatment plant. Those portions of the Petition in this matter seeking relief from §§ 12(a), 12(c), and 39 of the Environmental Protection Act and from Rules 404(c), 604(b), 701, 951, and 952 are dismissed.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 9<sup>th</sup> day of June, 1977, by a vote of 5-0.



Christan L. Moffett, Clerk  
Illinois Pollution Control Board