

ILLINOIS POLLUTION CONTROL BOARD
September 20, 2001

DORIS GLAVE,)
)
Complainant,)
)
v.) PCB 02-11
) (Citizens Enforcement - Noise)
BRENT HARRIS, PATTY HARRIS and)
WINDS CHANT KENNEL, INC.,)
)
Respondents.)

ORDER OF THE BOARD (by T.E. Johnson):

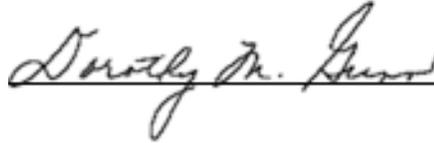
On July 26, 2001, Doris Glave (Glave) filed a complaint against Brent Harris, Patty Harris, and Winds Chant Kennel, Inc. (respondents). *See* 415 ILCS 5/31(d) (2000); 35 Ill. Adm. Code 103.204. Glave alleges that the respondents violated Section 24 of the Environmental Protection Act (Act) (415 ILCS 5/24 (2000)), as well as 35 Ill. Adm. Code 900.102 and 900.104. Glave further alleges that the respondents violated these provisions by emitting noise resulting from the barking, howling, and whining of dogs housed in respondents' boarding kennel located in Grayslake, Lake County, Illinois. On August 27, 2001, the respondents filed an answer and affirmative defenses to the complaint. On September 10, 2001, the complainant filed a response to the affirmative defenses.

Section 31(d) of the Act (415 ILCS 5/31(d) (2000)) allows any person to file a complaint with the Board. Section 31(d) further provides that "[u]nless the Board determines that such complaint is duplicitous or frivolous, it shall schedule a hearing." *Id.*; *see also* 35 Ill. Adm. Code 103.212(a). A complaint is duplicitous 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.* Within 30 days after being served with a complaint, a respondent may file a motion alleging that the complaint is duplicitous or frivolous. 35 Ill. Adm. Code 103.212(b). The respondents have filed no such motion. No evidence before the Board indicates that Glave's complaint is duplicitous or frivolous.

The Board accepts the complaint for hearing. *See* 415 ILCS 5/31(d) (2000); 35 Ill. Adm. Code 103.212(a). As noted, the respondents have timely filed an answer and affirmative defenses to the complaint. The Board directs the hearing officer to proceed expeditiously to hearing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the above order was adopted on September 20, 2001, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board