

ILLINOIS POLLUTION CONTROL BOARD
November 8, 1972

LIBERTY FINANCIAL CORPORATION)
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 v.) PCB 72-339
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 ENVIRONMENTAL PROTECTION AGENCY)
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OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

This is a Petition for Variance from a sewer ban imposed by the Agency. Liberty is an Illinois corporation engaged in the land development business in Springfield. In May of 1971, Liberty made their initial down payment on a seventy-acre parcel in the northeast section of Springfield for the purpose of constructing a mobile home park. They started rough grading in November of 1971. From then thru May of 1972 they did their finish grading and grading for the streets.

On May 18, 1972, Liberty obtained from the Illinois Department of Public Health a permit to construct the mobile home park. In reliance upon that permit Liberty then proceeded with construction of the sewers. Thereafter they applied to the Environmental Protection Agency for a sewer connection permit. That application was denied on July 31, 1972 for the reason that the Springfield Sanitary District sewage treatment plant was overloaded. On that same date Liberty was notified by the Springfield Sanitary District that the District could not issue a sewer connection permit until Liberty had first received a permit from the Agency. The new sewage treatment plant is expected to be in operation by March of 1973.

Liberty claims that prior to receiving the July 31 denial from the Agency they had not been aware that the Agency had issued any sewer ban in Springfield. They further claim that upon receiving the permit from the Department of Public Health they expended large sums of money and committed themselves to a substantial construction loan and began development in reliance thereupon.

We find Liberty's hardship to be self imposed. There is no evidence in the record to show that Liberty made any attempt to ascertain the possibility of receiving an Agency permit prior to making its expenditures and commit-

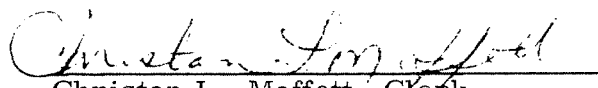
ments. They did not even apply for an Agency permit until June 23, 1972. If they would have applied earlier they could have received a reply prior to suffering any further loss. Furthermore we cannot see how Liberty's receiving a permit from the Department of Public Health was any indication that they would also be receiving a permit from the Agency. We have long ago held that site preparatory work itself is not a sufficient ground for permitting occupancy in the face of certain increased polluttional effects. See Wachta and Mota v. EPA, 71-77, July 12, 1971, 2PCB117; also Pyramid Mobile Estates, Inc. v. EPA, 71-154, September 16, 1971. For these reasons we must deny the request for a variance. However, we will grant a variance for one sewer connection so that a watchman's trailer may be installed so as to protect against vandalism.

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

ORDER

The request for variance is denied with the exception of one sewer connection for the purpose of a watchman's trailer.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 8th day of November, 1972 by a vote of 3-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board