

ILLINOIS POLLUTION CONTROL BOARD
August 30, 1990

VILLAGE OF MATTESON,)
an Illinois Municipal)
Corporation,)
)
Complainant,)
)
v.) PCB 90-146
) (Enforcement)
)
WORLD MUSIC THEATRE; JAM)
PRODUCTION, LTD; DISCOVERY)
SOUTH GROUP, LTD; and GIERCZYK)
DEVELOPMENT, INC.)
)
Respondents.)

ORDER OF THE BOARD (by R.C. Flemal):

This complaint was filed by the Village on August 2, 1990, and essentially alleges that sound generated during concerts at the World Music Theatre constitutes a noise nuisance in violation of Sections 23, 24, and 25 of the Act. Pursuant to Section 31(b) of the Act, when a complaint is filed by any person other than the Illinois Environmental Protection Agency, the Board must determine whether the complaint is "duplicitous or frivolous" before scheduling a hearing on the matter.

On August 20, 1990, pursuant to the Board's procedures for such complaints, Jam Productions, Ltd. and Discovery South Group, Ltd. filed a motion to dismiss, supported by affidavit, which essentially alleges that the complaint is "unfounded and frivolous" because 1) noise readings taken on certain dates did not show violation of the Board's numerical noise regulations and 2) on two occasions no sounds could be heard in the Woodfield Subdivision. Respondent's motion does not speak to whether the action is "duplicitous" i.e., currently being pursued in another forum.

The Board finds that this complaint is not duplicitous or frivolous within the meaning of Section 31(b). The information presented by respondents does not, at this time, persuade the Board that the requested relief is beyond the Board's authority to grant; even assuming the truth of respondents verified assertions, the Board has authority to require abatement of a noise nuisance if, after submission of proofs at hearing, the Village proves such has occurred.

This matter is accepted for hearing. A Hearing Officer will be appointed who will contact the parties to schedule further proceedings. Finally, today's ruling does not preclude the parties from filing any further appropriate motions.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 30th day of August, 1990, by a vote of 7-0.

Dorothy M. Gunn 1A4.
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board