

ILLINOIS POLLUTION CONTROL BOARD
January 11, 1990

ROBERT J. AND ALICE JOAN KVATSAK,)
)
 Complainants,)
)
 v.)
)
ST. MICHAEL'S LUTHERAN CHURCH,)
)
)
)
 Respondent.)

PCB 89-182
(Enforcement)

ORDER OF THE BOARD (by J. Marlin):

On November 9, 1989 Complainants Robert J. Kvatsak and Alice Joan Kvatsak filed their Complaint against St. Michael's Lutheran Church alleging noise pollution emanating from Respondent's amplified electronic carillon. Thereafter, on December 21, 1989 St. Michael's filed its Motion to Dismiss for Want of Jurisdiction. In addition to alleging the complaint is frivolous, the Motion claimed the Board lacked jurisdiction because the Complaint failed to allege the proper elements of a public nuisance under the Illinois Environmental Protection Act. For reasons given below, Respondent's Motion is denied and this matter is hereby accepted for hearing.

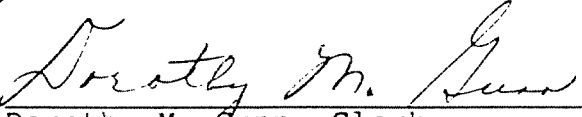
Respondent claims that the present suit is frivolous in nature and should be dismissed. However, an examination of the instant action reveals that the Complainant's alleged wrongs have an arguable basis in the Act. The parties have attempted resolution without success. The Board finds that this forum is appropriate for resolution of this citizen's complaint.

Nor is the Board's jurisdiction defective due to the artificial pleading requirements Respondent would have us impose. The Board notes that this is a citizen's complaint filed upon the "Formal Complaint" form provided by the Clerk of the Pollution Control Board and approved by the Board's rules. The forms delineate information required there. The pleading nicety requested by the Respondent is not required. Therefore, St. Michael's Motion is denied.

This matter is accepted for hearing. The Board will assign a Hearing Officer who will contact the parties in the near future.

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 11th day of January, 1990, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board