

ILLINOIS POLLUTION CONTROL BOARD
September 29, 1975

GLENN E. & JOAN B. JURGENS,)
 Petitioners,)
)
 v.) PCB 75-195
)
ENVIRONMENTAL PROTECTION AGENCY,)
 Respondent.)

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

This matter comes before the Pollution Control Board (Board) upon the May 7, 1975, petition and August 6, 1975 amended petition of Glenn E. and Joan B. Jurgens (Jurgens) for variance from Rules 951 and 962 of the Water Regulations (formerly Rules 901 and 921). The Environmental Protection Agency (Agency) filed its amended recommendation on September 5, 1975.

Jurgens bought a nine acre parcel of real estate within the city limits of Carthage, Illinois, in May of 1974. Subsequent to the purchase, Petitioner constructed a four unit apartment duplex type building designed for up to fifteen P.E. Although they were advised by the Agency that no construction permit was needed if a septic tank was constructed, the Jurgens decided to connect the building to the sewer system of Carthage. This decision was made because septic tanks had proved unsatisfactory in operations north of this property. Due to soil conditions in the area, seepage to the top of the soil is possible, causing unsanitary conditions and an unpleasant odor if septic tanks are used.

At the time Petitioners constructed the sewer connection, they were unaware that the Carthage Treatment Plant was on restricted status due to overload conditions. The Jurgens spent \$16,200.00 to construct the following sewer facility:

Approximately 750' to 800' 8" V.C.P. sewer pipe;
Approx. 650' of 4" cast iron force main; lift
station with 2 - 4" submersible pumps, Model #SE
874-6M, each pump rated at 200 gal. per min. at 38
ft. head W/2 -5 H.P. 1140 RPM, 230 Volt 60 cycle 3
phase motors, other attachments including high
water alarm (Pet. 2).

The Jurgens were also unaware that an Agency issued construction permit was needed before they could construct the sewer system. On or about March 27, 1975, Petitioners received a letter from the Agency stating that their construction without a permit violated the Board's Regulations, and that Carthage City was on restricted status.

The Agency recommendation states that Carthage City has accepted a bid for the construction of a new treatment facility, said construction to begin by October 1, 1975, and completed by June 1, 1976. Also, the existing treatment plant is receiving better maintenance than in past years.

Petitioner spent \$15,000.00 for the real estate and \$94,000.00 to construct the apartment building. They allege that without the rent from the seven tenants who reside in the building, they would not be able to meet their monthly mortgage payments of \$650.00.

Petitioners have investigated the possibility of installing a septic tank and till seepage field. Besides the possible health effects, such a system would cost the Jurgens an additional \$8,000.00.

Although prior construction is not in and of itself a sufficient hardship to cause the Board to grant a variance, the Board finds that in this case, in view of the extra expenditures which would be required for a one year period, the Petitioner has stated sufficient hardship to warrant the granting of a variance. Therefore the Board will grant the Jurgens a variance from Rules 951 and 962 of the Water Regulations, provided that the occupancy rate remains at seven persons until the new treatment facility is constructed and a certification is executed.

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:

- 1) Glenn E. Jurgens and Joan B. Jurgens are granted variance from Rules 951 and 962 of the Water Regulations as they apply to the sewer system constructed by Jurgens and connected to the Carthage City Sewage System; and

2) Petitioner's occupancy rate of the property heretofore described shall be limited to seven persons until the City of Carthage completes construction of its new sewer treatment plant and the City is no longer on "restricted status"; and

3) Within 28 days of the adoption of this Order, the Petitioner shall execute and forward to both the Illinois Environmental Protection Agency, Manager, Variance Section, 2200 Churchill Road, Springfield, Illinois 62706 and the Pollution Control Board a Certification of Acceptance and agreement to be bound to all terms and conditions of this variance. The form of said certification shall be as follows:

CERTIFICATION

We, _____ having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 75-195 hereby accept said Order and agree to be bound by all of the terms and conditions thereof.

Signed _____

Title _____

Date _____

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 29th day of September 1975 by a vote of 4-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board