

ILLINOIS POLLUTION CONTROL BOARD  
May 16, 1996

MR. & MRS. DON WILLIAMS, MR. &	)	
MRS. THOMAS MORRIS & MR. & MRS.	)	
PETER BIZIOS,	)	
	)	PCB 96-186
Complainants,	)	(Enforcement - Noise)
	)	
v.	)	
	)	
SCHAUMBURG PARK DISTRICT,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by E. Dunham):

On March 21, 1996, the Board directed the parties in this proceeding to file briefs with the Board addressing whether the complained of activity is an "organized amateur or professional sporting activity" and whether the complaint alleges violations of the Act which fall within the Board's purview. The complainants filed their brief on April 18, 1996 and filed additional information on April 25, 1996. The Schaumburg Park District (Park District) filed its brief on May 2, 1996. On May 10, 1996, complainants filed a motion for leave to file a response brief and its response brief. The Board grants complainants' motion for leave to file a response brief.

The Park District argues that the basketball games that take place at the park are an "organized amateur or professional sporting activity" and are therefore exempt from the Board's noise regulations. The Park District maintains that the basketball games are sporting events organized or controlled by a unit of local government as specified in the definition of "organized amateur or professional sporting activity" in Section 3.25 of the Act. The Park District states that it restricts the hours of play and the behavior permitted on the basketball court. These rules and regulations are enforced by park rangers who are employed by the Park District. The Park District reports that members of the public do watch games played at the park. The Park District maintains that it is a unit of local government.

Complainants maintain that the activities at Odium Park do not represent an "organized amateur or professional sporting activity" and therefore falls within the Board's purview. Complainants contend that the facility has never hosted any organized activity nor has any organized team play or practice taken place on the court. The complainants observe that there are no coaches at the facility and no supervision by the Park District. The complainants further maintain that the activity on the court is not conducted for business, education, charity, or entertainment of the general public. Complainants report that the basketball court has been used as early as 5:30 a.m. and as late as 1:30 a.m. Complainants contend that the Park District's employment of 2 park rangers for six months of the year who are responsible for patrolling fifty-seven facilities does not mean that the Park District controls or organizes the

activities on the court. In addition, complainants contend that the Park District's regulations on the use of the facility are general rules regarding prohibited behavior on all Park District property and do not indicate control of the activities on the court.

### DISCUSSION

Section 24 of the Act provides that "[n]o person shall emit beyond the boundaries of his property any noise that unreasonably interferes with the enjoyment of life or with any lawful business or activity". Accordingly, the Board's rules define noise pollution as "the emission of sound that unreasonably interferes with the enjoyment of life or lawful business or activity" and prohibit the emission of such noise pollution beyond the boundaries of one's property. (35 Ill. Adm. Code 900.101 and 900.102.)

Section 25 of the Act places restrictions on the Board's ability to hear noise violation proceedings involving certain sporting activities:

No Board standards for monitoring noise or regulations prescribing limitations on noise emissions shall apply to any organized amateur or professional sporting activity except as otherwise provided for in this Section.

415 ILCS 5/25 (1994).

In addition, the Board notes that Section 3.25 of the Act defines "Organized Amateur or Professional Sporting Activity" as:

[a]n activity or event carried out at a facility by persons who engaged in that activity as a business or for education, charity or entertainment for the general public, including all necessary actions and activities associated with such an activity. This definition includes, but is not limited to, skeet, trap or shooting sports clubs in existence prior to January 1, 1975, organized motor sports, and sporting events organized or controlled by school districts, units of local government, state agencies, colleges, universities or professional sports clubs offering exhibitions to the public. (emphasis added)

415 ILCS 5/3.25 (1994).

The Board must ascertain whether the activities alleged in the complaint filed on February 13, 1996 constitute an "organized amateur or professional sporting activity" and are therefore exempt from the Board's noise regulations. The Board has reviewed and given consideration to all of the arguments presented by the parties. The definition of "organized amateur or professional sporting activity" in Section 3.25 includes "sporting events organized or controlled by ... units of local government" as part of the definition. The basketball games at the park are controlled by the Park District which is a unit of local government. The Park District has established rules for play and controls the use of the facility. While the rules may

apply to all activities at Park District facilities they provide the Park District with control over the activities at its facilities including the basketball court.

In addition to finding that the activities satisfy the specific portion of the definition of "organized amateur or professional sporting activity" the Board finds that the activities also satisfy the more general provisions of the definition. The activities at the facility are carried out for the entertainment of those participating in the activity whether spectator or participant. It is not relevant that there be spectators to the activity but rather that members of the general public be allowed to participate in the activity either as a participant or spectator.

The Board finds that the complained of activities do represent an "organized amateur or professional sporting activity" as defined by the Act. Therefore, the Board does not have jurisdiction to hear this matter. (See Hinsdale Golf Club v. Kochanski (2d Dist. 1990), 197 Ill. App.3d 634, 555 N. E. 2d 31 and Shephard v. Northbrook Sports Club (2d Dist. 1995), 272 Ill. App.3d 764, 651 N.E. 2d 555.)

### CONCLUSION

Based on the record, the Board finds that the respondent's activities as alleged in the complaint constitute an "organized amateur or professional sporting activity". Pursuant to Section 25 of the Act, the Board's noise standards and regulations do not apply to these activities. Therefore, the Board does not have jurisdiction to hear the complaint as filed alleging violations of the noise standards.

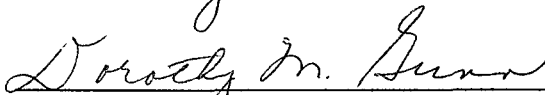
The complaint in this matter is hereby dismissed and the docket closed.

IT IS SO ORDERED.

Chairman C.A. Manning, and Members M. McFawn and J. Theodore Meyer concurred.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 16<sup>th</sup> day of May, 1996, by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board