

ILLINOIS POLLUTION CONTROL BOARD  
February 1, 2001

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 00-32  
) (Enforcement – PWS)  
OSBORN HOMES, INC., an Illinois )  
corporation, )  
)  
Respondent. )

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

On August 19, 1999, the People of the State of Illinois (People) filed a four-count complaint against respondents Village of Maryville (Village) and Osborn Homes, Inc. (Osborn Homes) regarding construction of sanitary sewers along Stonebridge Golf Drive in the Village of Maryville, Madison County, Illinois.

The complaint alleges that Osborn Homes violated Sections 12(c), 12(f), and 18 of the Environmental Protection Act (Act) (415 ILCS 5/12(c), 12(f), 18 (1998)); Section 309.202(a) of the Board's Construction Permit Rules (35 Ill. Adm. Code 309.202(a)); and Section 602.101 of the Board's Public Water Supply Rules (35 Ill. Adm. Code 602.101) by constructing sanitary sewers and water main extensions without permits.<sup>1</sup> There were additional alleged violations against the Village.

On November 2, 2000, the Board accepted a stipulation and settlement agreement between the People and the Village, resolving the action against the Village. The Village is not a party to this stipulation and proposal for settlement

On December 19, 2000, the Illinois Environmental Protection Agency (Agency) and Osborn Homes filed a stipulation and proposal for settlement, accompanied by a motion requesting relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (1998)). Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (1998)), the Board caused publication of the required newspaper notice of the stipulation and proposal for settlement and request for relief from the hearing requirement. The notice appeared in *The Times-Tribune* on December 28, 2000. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver from the hearing requirement.

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<sup>1</sup> The stipulation alleges that Osborn Homes violated Section 15 of the Act (415 ILCS 5/15 (1998)). There is no such allegation against Osborn Homes in the complaint. Given this inconsistency, the Board addresses only those violations alleged in the complaint.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. Osborn Homes neither admits nor denies the violations alleged by the People, but agrees to pay a civil penalty of \$7,500.

The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. Osborn Homes must continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's regulations.

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

ORDER

1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and Osborn Homes. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Osborn Homes must pay a civil penalty of \$7,500. Payment must be made within 60 days of the date of this order, that is, on or before April 2, 2001. Such payment must be made by certified check or money order payable to the Illinois Environmental Protection Agency, for deposit in the Environmental Protection Trust Fund. The case number, case name, and Osborn Homes' Federal Employer Identification number (37-1317196) must also be included on the certified check or money order and clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. The check or money order must be sent by first class mail to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

A copy of the payment transmittal and check shall be simultaneously submitted to:

Office of the Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706

4. Any such penalty not paid within the time prescribed incurs interest at the rate

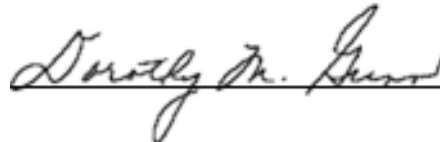
set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003 (1998)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest does not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

5. Osborn Homes must cease and desist future alleged violations of any federal, State, or local statutes and regulations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.520, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 1st day of February 2001 by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board