

ILLINOIS POLLUTION CONTROL BOARD

January 4, 2007

CITY OF CHICAGO DEPARTMENT OF ENVIRONMENT,	)	
	)	
	)	
Complainant,	)	
	)	
v.	)	AC 07-25
	)	(Administrative Citation)
1601-1759 EAST 130th STREET, L.L.C.,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by G.T. Girard):

On November 21, 2006, the City of Chicago Department of Environment (CDOE) timely filed an administrative citation against 1601-1759 East 130th Street, L.L.C. (respondent). See 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondent’s site located at 1601 E. 130th Street in Chicago, Cook County. For the reasons below, the Board accepts respondent’s petition to contest the administrative citation and reserves ruling on respondent’s motion to consolidate this proceeding with another pending administrative citation action involving the same parties, AC 06-41.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2004)), an administrative citation is an expedited enforcement action brought before the Board seeking civil penalties that are fixed by statute. Administrative citations may be filed only by the Illinois Environmental Protection Agency (Agency) or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations at sanitary landfills or unpermitted open dumps. See 415 ILCS 5/3.305, 3.445, 21(o), (p), 31.1(c), 42(b)(4), (4-5) (2004); 35 Ill. Adm. Code 108.

In this case, CDOE alleges that respondent violated Sections 21(p)(1) and (p)(7)(i) of the Act (415 ILCS 5/21(p)(1), (p)(7)(i) (2004)) by causing or allowing the open dumping of waste in a manner resulting in, respectively, litter and the deposition of general construction and demolition debris at respondent’s site. CDOE asks the Board to impose on respondent the statutory civil penalty of \$1,500 for each of the two alleged violations, for a total civil penalty of \$3,000.

As required, CDOE served the administrative citation on respondent within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2004); see also 35 Ill. Adm. Code 101.300(c), 108.202(b). On December 21, 2006, respondent timely filed a petition to contest the administrative citation. See 415 ILCS 5/31.1(d) (2004); 35 Ill. Adm. Code 101.300(b), 108.204(b). Respondent asserts, among other things, that it did not cause or allow the violations alleged and that the alleged violations resulted from uncontrollable circumstances. See 35 Ill. Adm. Code 108.206.

The Board accepts the petition and directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. *See* 35 Ill. Adm. Code 108.300; 415 ILCS 5/31.1(d)(2) (2004). By contesting the administrative citation, respondent may have to pay the hearing costs of the Board and CDOE. *See* 415 ILCS 5/42(b)(4-5) (2004); 35 Ill. Adm. Code 108.500. A schedule of the Board's hearing costs is available from the Clerk of the Board and on the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). *See* 35 Ill. Adm. Code 504.

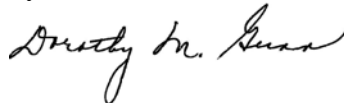
Respondent may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If respondent chooses to withdraw its petition, it must do so in writing, unless it does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If respondent withdraws its petition after the hearing starts, the Board will require respondent to pay the hearing costs of the Board and CDOE. *See id.* at 108.500(c).

CDOE has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2004); 35 Ill. Adm. Code 108.400. If the Board finds that respondent violated Sections 21(p)(1) and (p)(7)(i) of the Act, the Board will impose civil penalties on respondent. The civil penalty for violating any provision of Section 21(p) is \$1,500 for each violation of each such provision, except that the civil penalty amount is \$3,000 for each violation of any provision of Section 21(p) that is the person's second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5) (2004); 35 Ill. Adm. Code 108.500. However, if the Board finds that respondent "has shown that the violation resulted from uncontrollable circumstances, the Board shall adopt a final order which makes no finding of violation and which imposes no penalty." 415 ILCS 5/31.1(d)(2) (2004); *see also* 35 Ill. Adm. Code 108.500(b).

Lastly, respondent on December 21, 2006, filed a motion to consolidate this action with another pending administrative citation proceeding involving the same parties, AC 06-41. To allow time for receipt of any response from CDOE, the Board reserves ruling on respondent's motion. *See* 35 Ill. Adm. Code 101.300, 101.500.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 4, 2007, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board