

ILLINOIS POLLUTION CONTROL BOARD
March 5, 2008

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 04-207
)	(Enforcement – Land)
EDWARD PRUIM and ROBERT PRUIM,)	
)	
)	
Respondents.)	

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 97-193
)	(Enforcement – Land)
COMMUNITY LANDFILL COMPANY,)	(Consolidated)
INC.,)	
)	
Respondent.)	

HEARING OFFICER ORDER

On February 19, 2008, the respondents filed a motion for an extension of time to file its' motion to cancel hearing. Respondent's motion represents that the complainant's have no objection. The respondents' motion is granted.

On February 21, 2008, the respondents filed its motion to cancel the hearing previously scheduled for April 7 through April 10, 2008. On February 25, 2008, the complainant's filed their response in opposition. On February 26, 2008, the respondent filed a motion for leave to file a reply and its reply. Respondents' motion for leave to file a reply is granted.

Motion to Cancel the Hearing

Respondents properly note that the hearing in the above-captioned matter was previously scheduled for April 7 through April 10, 2008. The respondents represent that this is the second request by them to cancel the hearing. The first request was on September 22, 2006. That request was granted on October 17, 2007, due to respondent Edward Pruum's quintuple bypass surgery that was complicated by the presence of an aortic aneurism.

Respondents' primary attorney, Clarissa C. Grayson, represents in her motion and its attached affidavit that on January 17, 2008, she slipped on ice and fell, landing on her left elbow. Surgery required an insertion of wire into her left elbow and necessitates occupational therapy. Grayson further represents that she has been unable to use her left arm, including driving and work activities. Also attached to the motion is an affidavit by Grayson's orthopedic surgeon, Dr. Brian Hartigan. Hartigan's representation mirrors Grayson's, and that in his opinion, Grayson is unable to participate in the scheduled hearing as she will not be able to use her left hand in order to prepare and participate. He further opines that Grayson should be able to participate in a hearing by July 2008.

Complainant's Response In Opposition

Complainant argues that Grayson's injury is not sufficient reason to cancel the hearing, and that co-counsel, Mark LaRose, could proceed with the hearing. Complainant states that LaRose has been actively involved with the above-captioned matter from the initial filing, and that he was co-counsel with Grayson in a related case, People v. Community Landfill and City of Morris, PCB 03-191. A hearing was held in that matter in September 2007.

Complainant further states that due to various scheduling conflicts such as a wedding and vacation schedules in May through early August 2008, scheduling a hearing in July 2008 would be difficult if not impossible. Complainant argues prejudice resulting to the Board and the complainant outweighs any inconvenience to the respondents.

Respondents Reply

Respondents argue that pursuant to Section 101.510 of the Board's procedural rules, it is not required to demonstrate prejudice as the motion to cancel was filed more than 10 days before the scheduled hearing. Moreover, the motion was not brought due to lack of due diligence, but an accident. Finally, respondents take issue with complainant's argument that LaRose should be able to proceed when complainant in its Response states that the two attorneys representing the People each have scheduling conflicts in May and June due to a wedding involving one attorney and in July and August due to a planned vacation for the other.

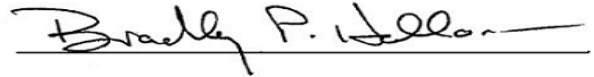
Ruling

I find that the respondent has put forth sufficient cause in its motion to cancel the hearing. Grayson has been intimately involved in the above-captioned proceedings, while LaRose has not appeared at a telephonic status conference since at least 2005. Fairness requires that Grayson partake in the hearing. I agree with the complainant that this matter has been long delayed for one reason or another. For that reason, I direct that all attorneys who have filed appearances in this matter, including Clarissa Grayson, Mark LaRose, Christopher Grant and Jennifer Tomas be available and ready to proceed with

the next scheduled hearing should an event like this arise again. Respondents' motion to cancel the hearing scheduled for April 7 through April 10, 2008, is granted.

The parties or their legal representatives are directed to appear at a telephonic status conference with the hearing officer on March 5, 2008, at 10:00 a.m. The telephonic conference must be initiated by the complainant, but each party is nonetheless responsible for its own appearance. At the conference, the parties must be prepared to discuss the status of the above-captioned matter and potential hearing dates.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a horizontal line.

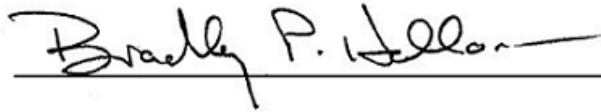
Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601
312.814.8917

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on March 6, 2008, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on March 6, 2008:

John T. Therriault
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
Chicago, Illinois 60601

A handwritten signature in black ink that reads "Bradley P. Halloran" with a horizontal line underneath it.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
(312) 814-8917

PCB 2004-207
Clarissa C. Grayson
LaRose & Bosco, Ltd.
200 North LaSalle Street
Suite 2810
Chicago, IL 60601

PCB 2004-207
Christopher J. Grant
Office of the Attorney General
Environmental Bureau
500 South Second Street
Springfield, IL 62706

PCB 2004-207
Jennifer A. Tomas
Office of the Attorney General
Environmental Bureau
500 South Second Street
Springfield, IL 62706

PCB 2004-207
Robert Pruim
Community Landfill Company
c/o Morris Community Landfill
1501 Ashley Road
Morris, IL 60450

PCB 2004-207
Edward Pruim
Community Landfill Company
c/o Morris Community Landfill
1501 Ashley Road
Morris, IL 60450