

**Sec. 7-471-36. Interim relief pending final disposition**

(a) Following the date on which a complaint has been made to the board concerning an ongoing violation of the act, the complainant may request the board to issue an interim order requiring the respondent to cease and desist from such act or practice until the board has made its final determination. Such request must clearly and specifically state with certainty and definiteness all the essential facts relied upon by complainant to show that he has met the standards contained in subsection (g), *infra*. The facts alleged in said request must be supported by affidavits which shall be made on personal knowledge and shall set forth such facts as would be admissible in evidence before the board at a formal hearing, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto.

(b) At least two days prior to the day upon which the request is filed with the board, the complainant shall cause a copy of said request, affidavits and attachments to be sent by registered or certified mail, or to be served by an appropriate officer upon, all parties or their representatives.

(c) Respondent shall have the right to file an answer and counter affidavits. Failure of respondent to file an answer and counter affidavits and to appear before the board or single member thereof shall not prevent the board from accepting as true the facts properly alleged in the complaint and affidavits and granting the complainant's request.

(d) After having considered the facts contained in complainant's request and affidavits, and respondent's answer and counter affidavits, if any, the board may in its discretion dismiss the request without a hearing.

(e) If the board does not dismiss the request as provided in subsection (d), *supra*, and the parties do not waive a hearing: A panel of the board or a single member thereof shall conduct a hearing as expeditiously as possible after its receipt of the motion for interim relief. If a panel of the board hears the motion it shall issue a decision within thirty (30) days of the close of the hearing.

(f) If a single member of the board hears the motion, that member shall issue a proposed decision within thirty (30) days of the close of the hearing, and if no objections are filed it will be the decision of the board on the motion for interim relief. Specific written objections to the proposed decision shall be filed within five (5) days, and the board may in its discretion conduct a hearing on the objections, but in any case, the board shall issue a decision on the motion within thirty (30) days of the issuance of the proposed decision.

(g) In determining whether to issue an interim order the board shall consider

(1) the harm to the complainant if an interim order is not issued; including whether irreparable injury, loss, or damage will result,

(2) the harm to the respondent if an interim order is issued,

(3) the probability of success on the merits by the complainant, and

(4) the interests of the public.

(h) If an interim order is issued and the general counsel finds the respondent is not complying with said order, the general counsel shall promptly seek enforcement of the board order in the Superior Court.

(Effective May 7, 1980; Amended October 11, 2013)