SECOND DIVISION
June 7, 2011

No. 1-10-1798
Consolidated with No. 1-10-2460

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE VILLAGE OF PARK FOREST, Plaintiff-Appellant, v. THORNCREEK TOWNHOMES and THE VILLAGE OF PARK FOREST ORDINANCE ENFORCEMENT DEPARTMENT, Defendants-Appellees,	)	Appeal from the Circuit Court of Cook County No. 08 M6 3833 Honorable Camille E. Willis, Judge Presiding.
THE VILLAGE OF PARK FOREST, Plaintiff-Appellant, v. THORNCREEK APARTMENTS II, LLC, and ATLANTIC MANAGEMENT CORP., Defendants-Appellees.	)	Appeal from the Circuit Court of Cook County No. 07 CH 37782 Honorable Mary Anne Mason, Judge Presiding.

JUSTICE CONNORS delivered the judgment of the court.
Presiding Justice Cunningham and Justice Karnezis concurred in the judgment.

ORDER

Held : Where a management and leasing office was located in a rental residential townhome development and provided services to

> the development's tenants, an administrative hearing officer's determination that the office constituted an accessory use and was not in violation of the local zoning ordinance was not clearly erroneous. Circuit court's decision to sanction plaintiff for continuing to litigate a parallel lawsuit in the circuit court regarding the same zoning violations despite notice of the administrative adjudication was not an abuse of discretion.

In this consolidated appeal, plaintiff Village of Park Forest seeks administrative review of an order dismissing citations that the Village had filed against defendant Thorncreek Apartments II, LLC (Thorncreek) for alleged zoning violations. The Village also appeals orders of the circuit court in a related case that (1) dismissed the Village's complaint seeking fines against Thorncreek for the same zoning violations as well as additional building code violations, and (2) imposed sanctions against the Village under Illinois Supreme Court Rule 137 (eff. Feb. 1, 1994) for continuing to pursue the second case after the underlying citations had been resolved by an administrative agency. We affirm in both cases.

I. BACKGROUND

Thorncreek[1] was the second of three similarly named entities that each owned a different area of a rental townhome development known as Thorncreek Townhomes, which is located in the Village of Park Forest. Although the areas were separately owned, the owners employed a common management company for the entire development. Thorncreek owned the area known as Area G, but the management office was located in Area F, which was owned by another entity.

[1] Atlantic Management Company, which is also a defendant in No. 1-10-2460, is either the successor in interest to or an alter ego of Thorncreek II, depending on how the allegations in plaintiff's complaint in that case are interpreted. Either way, Atlantic's role in this matter is minimal, so for the sake of clarity we will refer only to Thorncreek in our description of the facts.

For reasons not relevant to this appeal, Thorncreek and the other two related entities were involved in a long-running dispute with the Village over the Village's reluctance to issue business licenses to the entities. Matters came to a head in February 2007 when the entity that owned Area F decided to sell that area to a third party. The effect of this transaction was that Thorncreek could no longer use the common management office located in Area F and needed to move its leasing and management operations to Area G. Thorncreek informed the Village of the change in location of its offices, and it was in turn notified that it would need to obtain a "conditional use" permit in order to comply with applicable zoning regulations.

Thorncreek was also informed by the Village that Thorncreek could not receive a conditional use permit because it still had not been issued a business license. Despite this information, Thorncreek applied for a conditional use permit and its application was unanimously approved by the Village's Plan Commission. However, when Thorncreek's petition was forwarded to the Village board for confirmation, no action was taken and the Board neither approved nor denied the petition.

At about this time, the Village began issuing citations to Thorncreek for violation of section 118-113.4 of the Village's Code of Ordinances by allegedly "[o]perating a business service office in a R-2A district without approval of Village Board." It appears from the record that Thorncreek was eventually cited for several dozen separate violations of this section, each of which represents a single day on which Thorncreek was allegedly not in compliance with the zoning ordinance.

Thorncreek contested the citations and filed a motion to dismiss with the administrative hearing officer assigned to hear the citations. Thorncreek contended that the citations were

improper because its management and leasing office constituted an "accessory use" of the property, obviating the need for a conditional use permit and making section 118-113.4 inapplicable. The Village's response was limited to the argument that the office did not qualify as an accessory use, and it did not raise any other arguments during the administrative hearing. The parties agreed to submit the case to the hearing officer on briefs alone without an evidentiary hearing.

The parties appeared and argued the case before the hearing officer on March 6, 2008. After an extensive hearing in which the parties and the hearing officer debated and discussed the effect of the applicable law on the agreed facts, the hearing officer ruled that the management and leasing office constituted an accessory use. The hearing officer then dismissed the zoning citations. At the same hearing, the parties and the hearing officer discussed another set of citations that had been filed against Thorncreek for allegedly failing to comply with a building code requirement to upgrade the electrical capacity in its residential unit. The hearing was continued regarding the building code violations, and the hearing officer issued a written ruling and order on March 12, 2008.

The Village filed a motion to reconsider, and on May 29, 2008, the parties again appeared before the hearing officer. The hearing officer denied the Village's motion to reconsider his ruling on the zoning citations and, after the parties stipulated to the facts, found Thorncreek liable for the building code citations and imposed fines. The hearing officer entered a final written order denying reconsideration on July 10, 2008.

The Village timely filed a complaint for administrative review in the circuit court of Cook County on August 14, 2008. After full briefing and argument by the parties, the circuit

court affirmed the order of the administrative hearing officer. The Village timely filed a notice of appeal in that case.

While the above events were still ongoing, the Village initiated a parallel case in the circuit court. In December 2007, while Thorncreek's motion to dismiss was still pending before the hearing officer, the Village filed a lawsuit in the chancery division of the circuit court. The complaint was later amended on September 29, 2009. The amended complaint, which is the one at issue in this appeal,[2] alleged that Thorncreek was in violation of the Village's zoning and building ordinances, and it sought fines and penalties against Thorncreek in accordance with the Village's ordinances.

The amended complaint consisted of two counts. Count I alleged that Thorncreek was operating a management and leasing office in a residential zone without a conditional use permit. Count II alleged that Thorncreek had failed to upgrade the electrical service in its residential units to 100 amperes when a change of occupancy occurred, as required by the building code. The time period for and character of the violations alleged in the amended complaint are essentially identical to the zoning citations at issue in the administrative case, but the amended complaint does not mention the existence of the administrative action.

Thorncreek moved to dismiss the amended complaint, arguing that count I should be dismissed under section 2-619(a)(3) of the Code of Civil Procedure (735 ILCS 5/2-619(a)(3) (West 2008)) because the zoning violations had already been administratively adjudicated by the

[2] The chancery division case was briefly removed to federal court in 2008, after Thorncreek filed a counterclaim against the Village that alleged several federal causes of action. The federal court severed Thorncreek's counterclaim and kept that portion of the case, but declined to exercise supplemental jurisdiction over the Village's original state law complaint. The Village amended its complaint when the case returned to the circuit court in 2009.

hearing officer and were the subject of the complaint for administrative review, which was then pending in the circuit court in front of a different judge. Thorncreek argued that count II was facially deficient under section 2-615 of the Code of Civil Procedure (735 ILCS 5/2-615 (West 2008)) because it failed to allege the units for which occupancy had changed or any dates that the occupancy had allegedly changed. Thorncreek also noted that the building code violations alleged in count II had been adjudicated during the administrative hearing on May 29, 2008.

The circuit court dismissed count I with prejudice under section 2-619(a)(3), and dismissed count II but granted the Village leave to replead. The circuit court also granted Thorncreek leave to file a motion for sanctions against the Village. The circuit court later imposed sanctions on the Village in the amount of $28,118.83, finding that the Village had been on notice that its claims relating to the zoning issue were meritless at least since March 12, 2008, when the administrative hearing officer issued his written decision.

The Village did not amend count II, and the circuit court entered a final order on all matters outstanding in the case on July 27, 2010. The Village timely appealed and moved to consolidate the administrative review case with the chancery case. Both of these cases are now before us.

II. ANALYSIS

There are three broad questions presented by this consolidated appeal: (1) whether the administrative hearing officer properly dismissed the zoning citations; (2) whether the amended chancery complaint was properly dismissed; and (3) whether the trial court abused its discretion by sanctioning the Village in the chancery case.

A. Administrative Review

We first examine the decision of the administrative hearing officer, in which he found that the management and leasing office constituted an accessory use of the property and was therefore not illegal under the applicable zoning regulations. The Village raises four points of error regarding the hearing officer's ruling: (1) that the operation of a business office on any property located in an R-2A zoning district is illegal; (2) that accessory use is not an affirmative defense to an alleged zoning violation; (3) that the management and leasing office is not located on the same lot as the main building and therefore cannot be an accessory use; and (4) that the management and leasing office is not an accessory use to the residential townhomes because it does not serve the main purpose of the property.

As an initial matter, Thorncreek argues that the Village has forfeited the first three arguments because it failed to raise them during the administrative hearing. It is well settled that the forfeiture principle applies to administrative review cases, and "issues or defenses not placed before the administrative agency will not be considered for the first time on administrative review." *Texaco-Cities Service Pipelines Co. v. McGaw*, 182 Ill. 2d 262, 278 (1998); see 735 ILCS 5/3-110 (West 2008) ("No new or additional evidence in support of or in opposition to any finding, order, determination or decision of the administrative agency shall be heard by the court."). To the extent that the Village now claims that Thorncreek has forfeited its forfeiture argument on appeal because Thorncreek did not raise forfeiture before the trial court, this is immaterial to our analysis. Because this case comes to us on administrative review, it is the hearing officer's decision that we review, not that of the lower court. See *Wade v. City of North Chicago Police Pension Board*, 226 Ill. 2d 485, 504 (2007). Consequently, the only question relevant to forfeiture is whether the Village raised these arguments during the administrative

hearing.

In its response to Thorncreek's motion to dismiss, the only counterargument that the Village raised was that the management and leasing office did not constitute an accessory use within the meaning of the Code of Ordinances because the office is not subordinate to and does not serve a main use of a multifamily residential structure. This argument is identical to the fourth argument that the Village has now put forth on appeal, so this argument has not been forfeited. However, nowhere in the Village's response to the motion to dismiss does it raise any of the other three arguments. The Village also failed to raise these three issues during oral arguments before the hearing officer, and instead the entire hearing revolved around the question of whether the office was subordinate to and served the main use of the property. Indeed, when the hearing officer himself inquired whether the office satisfied the condition of being located on the same lot, which the Village raises as issue three on appeal, the Village's attorney specifically stated, "That's not an issue."

Finally, while the Village claims that it properly raised the question of whether accessory use is an affirmative defense, which it raises as the second issue here, the Village did not raise this issue until it filed a motion to reconsider the hearing officer's ruling. In fact, all of the Village's arguments in its response to the motion to dismiss and during the initial hearing were directed only to the question of whether the office qualifies as an accessory use, and at no point did the Village argue that accessory use is not an affirmative defense to a zoning violation.

Even assuming for the purpose of argument that motions to reconsider are available in

municipal administrative hearings of this sort,[3] an issue that is raised for the first time in a motion to reconsider may be considered at the discretion of the court, but only when accompanied by a "reasonable explanation for why the additional issues were not raised at the original hearing." (Emphasis omitted.) *Kopley Group V., L.P. v. Sheridan Edgewater Properties, Ltd.*, 376 Ill. App. 3d 1006, 1022 (2007). The hearing officer declined to consider the Village's new argument, and the Village does not explain how he abused his discretion in doing so. Additionally, the Village does not explain either in its motion to reconsider or in its brief on appeal why the issue was not presented during the original hearing. Raising this issue for the first time only in a motion to reconsider is therefore insufficient to properly preserve it for the purpose of administrative review.

Because the Village failed to properly raise three of the four issues before the hearing officer, it has forfeited these issues on administrative review. See *Texaco-Cities Service Pipelines Co.*, 182 Ill. 2d at 278 (1998); 735 ILCS 5/3-110 (West 2008). This leaves us with only the fourth issue, that is, whether the management and leasing office qualifies as an accessory use.

The standard of review that we apply "depends upon whether the question presented is one of fact, one of law, or a mixed question of fact and law. [Citation.]" (Internal quotation marks omitted.) *Cinkus v. Stickney Municipal Officers Electoral Board*, 228 Ill. 2d 200, 210 (2008). The record reveals that the facts in this case were essentially undisputed. Indeed, the parties chose to forgo an evidentiary hearing and submitted their case to the hearing officer on

[3] This question was raised by Thorncreek in its response to the Village's motion to reconsider, but it has not been pursued on cross-appeal so we will not address it further.

the briefs alone. Moreover, the only issue that was argued before the hearing officer was whether the management and leasing office qualifies as an accessory use under the Village's Code of Ordinances. The definition of an accessory use was not disputed during the hearing.

This issue therefore presents a mixed question of fact and law, which is a "question[] in which the historical facts are admitted or established, the rule of law is undisputed, and the issue is whether the facts satisfy the statutory standard ***. [Citation.]" (Internal quotation marks omitted.) *Cinkus,* 228 Ill. 2d at 211. Our review of a mixed question of law and fact is relatively deferential and is limited to whether the decision was clearly erroneous. *Id.* We will not reverse unless we are "left with the definite and firm conviction that a mistake has been made. [Citation.]" (Internal quotation marks omitted.) *Id.*

Under section 118-7 of the Village's Code of Ordinances, an "accessory building or use" is defined as one that is:

> "(1) Subordinate to and serves a main building or main use;
>
> (2) Subordinate in area, extent or purpose to the main building or main use served; and
>
> (3) Located on the same lot as the main building or main use served, with the single exception of such accessory off-street parking facilities as may be permitted to be located other than on the same lot with the building or use served." Village of Park Forest Code of Ordinances § 118-7 (adopted Dec. 8, 1997).

As presented by the parties to the hearing officer, the contested issue was whether the management and leasing office satisfied the first of these criteria, that is, whether the office is

subordinate to and serves a main building or main use.

The specific piece of property at issue was a residential townhome that consisted of at least four rental units, one of which had been converted into office space for the management and leasing office. The office kept normal business hours and did not include a live-in manager. Thorncreek used the office for the day-to-day management of the development, which included leasing units, accepting rental payments from tenants, and receiving service complaints. The majority of the discussion at the hearing dealt with identifying the main purpose of the property. The hearing officer summarized his findings in his written order as follows:

> "[T]he use of a part of the Area G property as a leasing/business office serving a multi-family, multi-building residential rental complex is easily related to operating a rental complex. It is subordinate in a use sense in that its functions (leasing, rent drop-off, and service contact point for residents) are dependent on the main use. It is subordinate in area or extent in that it occupies only a portion of one building, and most ¼ of the interior area of one building."

Based on this ruling, the hearing officer found that the property's main use was the operation of a residential rental housing complex, and that the office served the main use because it was directly related to serving the needs of the tenants of the complex.

We cannot say that this ruling was clearly erroneous. Although the Village argues that a commercial space like the management and leasing office is necessarily incompatible with a multifamily residential property, the Village overlooks the fact that the property is entirely rental in nature rather than resident owned. The hearing officer specifically observed during the hearing that this fact was crucial to his ruling and explained his reasoning as follows:

> "If we were talking about a residential character that was a townhouse or ownership sort of thing, and [the office] was purely a Sales Office which invited exclusively the general public in, *** it would not be directly serving the main use of the building, and indeed would not be subordinate to the desires or the use of the building visavis [*sic*] the other residents. But with it being a Management Office which includes the processing of complaints, and the use as a contact function for someone who is a landlord in a multiresidential area, in a setting that does not appear to correlate with overwhelming the building by surface area, square footage, or things like that, I think it is subordinate. It is of lesser quality. It does not overwhelm the main function that is there which is to serve as a residential rental use."

Based on the facts available to him and the applicable law, the hearing officer's determination that the management and leasing office serves the main purpose of the property is not clearly erroneous. There is nothing in the Code of Ordinances that dictates what the main purpose of a property must be, and the Village has not presented us with any authority that would contradict or call into question the hearing officer's application of these facts to the definition of an accessory use.

The Village cites only two cases in its brief on this point, but neither case is relevant or helpful to our analysis. *Village of Riverside v. Kuhne*, 335 Ill. App. 547 (1948), is an appeal from a criminal conviction, not an administrative decision, and it applies a different standard of review. Moreover, the ordinance in that case appears to include the additional requirement that the accessory use be "customarily incident" to the main use of the property (*id.* at 560-61) , a

requirement that, as the hearing officer noted during the hearing, is not present in the Village's definition of accessory use. The other case that the Village cites, *City of Rockford v. Sallee*, 129 Ill. App. 2d 75 (1970), is similarly unhelpful. That case was an appeal from the denial of an injunction, and the zoning exception at issue was the "home occupation" exception rather than accessory use. See *id.* at 77, 82.

In sum, the hearing officer's determination that Thorncreek's management and leasing office qualifies as an accessory use is not clearly erroneous. We therefore affirm the hearing officer's finding that the location of the management and leasing office in an R2-A zone without a conditional use permit is not a zoning violation, and we affirm his dismissal of the zoning citations against Thorncreek.

B. Dismissal of the Chancery Case

We next consider whether the circuit court properly dismissed the Village's amended complaint in the chancery case. As previously mentioned, count I of the complaint sought to hold Thorncreek liable for alleged zoning violations due to the operation of the management and leasing office without a conditional use permit. Count II sought to hold Thorncreek liable for violations of the building code due to Thorncreek's alleged failure to upgrade electrical service during changes in occupancy.

Regarding count I, we need not consider the Village's arguments on this issue because of our disposition of the administrative review case. The Village concedes in both its opening and reply briefs on appeal that count I is only viable if we reverse the decision of the hearing officer. The Village "acknowledges that the outcome of [the administrative review case] directly affects the viability of Count I of the Amended Complaint in [the chancery case]. *** [T]he claims in

Count I could ultimately be barred on res judicata/collateral estoppel grounds if this Court affirms the decision of the Hearing Officer." We agree. Because we have affirmed the hearing officer's decision that the management and leasing office in its current form does not violate the Village's zoning ordinance, the Village cannot relitigate this issue in the circuit court. See 735 ILCS 5/2-619(4) (West 2008) (barring litigation of claims that have previously been adjudicated). We accept the Village's concession and affirm the circuit court's dismissal of count I without further discussion.

We now examine the dismissal of count II. This count is based on Thorncreek's alleged violation of section 18-290, which states in pertinent part:

> "No person shall occupy as owner-occupier or let to another for occupancy any dwelling unit or portion thereof for the purpose of living therein which does not comply with the following:
>
> ***
>
> (11) Every facility, application, piece of equipment or utility connection thereto shall be so installed that it will function properly and shall be maintained in good working condition.
>
> ***
>
> At time of a change of occupancy of a residence which is supplied with less than 100 ampere, three-wire service, the electrical service shall be increased to at least that level of service." Village of Forest Park Code of Ordinances § 18-290.

The Village alleged in count II that "[o]ccupancy in each unit has changed numerous times in

Area G, and at each time occupancy has changed, [Thorncreek] has failed or refused to increase the level of service to at least 100 ampere service and has failed and refused to make reasonable attempts to increase the level of service."[4]

The circuit court's order does not state whether it dismissed count II pursuant to section 2-615 or section 2-619. However, the circuit court stated that the count was being dismissed "for failure to state a claim," and granted the Village leave to replead. This indicates that the circuit court dismissed this count due to legal insufficiency under section 2-615 of the Code of Civil Procedure (735 ILCS 5/2-615 (West 2008)), rather than because of some affirmative matter under section 2-619 (735 ILCS 5/2-619 (West 2008)). We therefore review the dismissal under section 2-615.

We review a dismissal under section 2-615 *de novo*, and the "question presented by a section 2-615 motion to dismiss is whether the allegations of the complaint, when taken as true and viewed in a light most favorable to the plaintiff, are sufficient to state a cause of action upon which relief can be granted." *Turner v. Memorial Medical Center*, 233 Ill. 2d 494, 499 (2009).

Count II of the Village's complaint is fatally flawed because it does not allege enough facts to state a cause of action for violation of the building code. The 100 ampere requirement of section 18-290 took effect only on January 1, 2006 (see Village of Park Forest Ordinance No.

[4] The record from the administrative review case discloses that these same allegations were in fact adjudicated by the hearing officer on May 29, 2008, which was the same hearing during which the Village's motion to reconsider was heard. At that hearing, the hearing officer found Thorncreek liable for the building code violations and imposed a fine, which is the same relief that the Village sought in count II of the amended complaint in the chancery case. However, the amended complaint does not mention these events and, because it appears that the circuit court dismissed count II under section 2-615 of the Code of Civil Procedure (735 ILCS 5/2-615 (West 2008)), we cannot and do not consider that affirmative matter in reaching our decision on the sufficiency of count II. See *Turner v. Memorial Medical Center*, 233 Ill. 2d 494, 499 (2009).

1835 (adopted Dec. 12, 2005)), yet the amended complaint alleges that Thorncreek owned Area G from 1995 until 2009. However, count II fails to specify when the alleged occupancy changes occurred, much less which residential units in the area allegedly changed occupants. Illinois is a fact-pleading jurisdiction, and "a plaintiff must allege facts sufficient to bring his or her claim within the scope of the cause of action asserted." *Turner*, 233 Ill. 2d at 499. An allegation that a unit changed occupants after January 1, 2006, could arguably sustain a claim that Thorncreek violated section 18-290, but the Village has not made such an allegation. Count II consequently fails to allege sufficient facts in support of the Village's claim that Thorncreek has violated the building code, and therefore the circuit court correctly dismissed that count under section 2-615. Although the circuit court granted the Village leave to amend count II, the Village elected to stand on the count as it was pled in the amended complaint. We therefore affirm the circuit court's final order dismissing count II with prejudice.

C. Sanctions

Finally, we examine the circuit court's decision to impose sanctions on the Village in the chancery case. The Village raises two areas of error, arguing that the circuit court abused its discretion by (1) imposing sanctions, and (2) barring the Village from engaging in discovery regarding Thorncreek's bill of costs.

Illinois Supreme Court Rule 137 (eff. Feb. 1, 1994) provides, in pertinent part:

> "The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good-faith argument for the extension,

> modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation."

The circuit court is authorized to impose sanctions on parties or their attorneys for violations of Rule 137. See Ill. S. Ct. R. 137 (eff. Feb 1, 1994). "The decision whether to impose sanctions under Rule 137 is committed to the sound discretion of the circuit judge, and that decision will not be overturned unless it represents an abuse of discretion." *Dowd & Dowd, Ltd. v. Gleason*, 181 Ill. 2d 460, 487 (1998). On review, "the primary consideration is whether the trial court's decision was informed, based on valid reasoning, and follows logically from the facts." *Sterdjevich v. RMK Management Corp.*, 343 Ill. App. 3d 1, 19 (2003). An abuse of discretion occurs only when "no reasonable person could have taken the view that [the circuit court] adopted." *Id.*

Following a hearing on the sanctions issue, the circuit court summarized its reasons for imposing sanctions as follows:

> "The only justification for filing this lawsuit offered by the Village is that the violations, which are the subject of Count I in which parenthetically had already been adjudicated against the Village occurred on different days.
>
> And as I pointed out in the argument on the motion to dismiss filed by [Thorncreek], the day of the violation doesn't change the law applicable to the alleged violations.
>
> And the law applicable to the alleged violations had already been determined adversely to the Village at the time this lawsuit was filed.

> The Village was pursuing review of the administrative decision. I – But decided to file this lawsuit anyway, and I find that conduct sanctionable."

The circuit court chose to limit the sanctions to only the Village's conduct after March 12, 2008, which was the date that the hearing officer rendered his written decision. The circuit court then imposed sanctions in the amount of $28,118.83.

We cannot say that the circuit court's findings and decision to impose sanctions are unreasonable. In this case, the record reveals that the trial court imposed sanctions because the Village pursued the chancery case for several years after the underlying zoning citations had been adjudicated by the administrative hearing officer. Thorncreek moved to dismiss the administrative citations in September 2007, but while that motion was pending before the hearing officer, the Village filed its original complaint in the chancery case with the circuit court in December 2007, seeking to litigate issues that were identical to those pending in the administrative hearing. However, the hearing officer adjudicated the zoning violation issue on March 12, 2008. The Village then pursued administrative review of the hearing officer's decision.

Despite these facts, the Village continued to litigate the chancery case as if nothing had happened for two more years, and it does not appear that it ever informed the circuit court of the hearing officer's ruling. The Village's behavior was not passive, as shown by its affirmative decision to file the amended complaint in September 2009, over a year and a half after the hearing officer's decision. Even then, nowhere does the amended complaint mention the fact that the Village's claims had already been adjudicated. As in the circuit court, the Village claims on appeal that this conduct was justified because it sought recompense for additional days that

Thorncreek's office had allegedly been in violation the zoning code and which were allegedly not brought before the hearing officer. However, the hearing officer found that the management and leasing office did not violate the zoning ordinance, which necessarily means that the Village cannot have any viable claim for additional zoning violations based on the operation of the management and leasing office.

Importantly, the circuit court chose to sanction the Village only for actions that occurred after the hearing officer rendered his decision on March 12, 2008, the point at which the Village was on notice that its claims in the chancery case were meritless. Limiting the starting point for sanctions to this date follows logically from the facts of this case and is a reasonable method of tailoring the sanction to the specific behavior at issue.

The Village also argues that the circuit court abused its discretion because a stay pending the outcome of the administrative review case would have been more appropriate. The Village also asked for this relief in lieu of sanctions before the circuit court:

> "[The Village]: *** Back on the argument of February 23rd and again on our motion for reconsideration we talked about how a stay was appropriate in this matter.
>
> And a matter is on appeal in [the administrative review case] *** [a]nd the ruling on appeal could affect another case, this case. I believe that a stay is appropriate, your Honor, because if that case is reversed, the case on appeal is reversed and it could affect this case. And –
>
> THE COURT: When did the Village come in after it filed this complaint and tell me this matter needs to be stayed? When did the Village come in short of

my order on sanctions? Never, right?

[The Village]: It did –

THE COURT: Never asked for a stay.

[The Village]: That's correct, but, your Honor, the matter has been stayed for all intents and purposes. An official stay granted was never requested in writing, but *** the Village's actions are consistent with the Village acting as if this matter is stayed. ***

***

I don't think that the Village has done anything unreasonable, especially given that while they may have not officially asked for a stay prior to your February 23rd ruling, the Village has been consistent and acting as if a stay has been in place, and Thorncreek's invoices show that.

THE COURT: When Thorncreek moved to dismiss a motion that was fully briefed and argued [before the administrative hearing officer], it was at that point or before that the Village should have said you know what, Judge, let's stop now, let's wait and see what the outcome of the administrative appeal that we filed is, let's wait until a final order is entered in that administrative proceeding acknowledging that so far we've lost.

The Village didn't do that. It's too late now ***. It's too late."

As the circuit court made very clear in the record, at no point in the nearly two years between the hearing officer's ruling and the circuit court's sanctions order did the Village move to stay the chancery proceedings. Given this extensive lapse of time before the Village asked for

a stay, we cannot say that it was unreasonable for the circuit court to decline to stay proceedings.

The Village makes three additional arguments on the issue of imposing sanctions. First, the Village argues circuit court failed to set forth its reasons for imposing sanctions in writing and with specificity. We have stated in other cases that "[t]he specific factual basis of the trial court's decision [to impose sanctions] is needed so that the reviewing court may determine (1) whether the trial court's decision was an informed one; (2) whether the decision was based on valid reasons that fit the case; and (3) whether the decision followed logically from the application of the reasons stated to the particular circumstances of the case." *Bank of Homewood v. Chapman*, 257 Ill. App. 3d 337, 349-50 (1993). As can be seen from the quotations from the record above, however, the circuit court recited its reasons for imposing sanctions on the record and we have had no difficulty in reviewing its decision. It was therefore not error for the circuit court to not memorialize its reasons in its written order. *Cf. Spiegel v. Hollywood Towers Condominium Association*, 283 Ill. App. 3d 992, 1002 (1996).

Second, the Village asserts that Thorncreek's motion for sanctions was insufficiently specific, arguing that Thorncreek failed to set forth which pleadings and which statements therein are sanctionable under Rule 137. However, we have long held that specificity is not required when sanctions are sought because the entire lawsuit is meritless as in this case. See, *e.g.*, *Patton v. Lee*, 406 Ill. App. 3d 195, 200 (2010) (citing *Dayan v. McDonald's Corp.*, 126 Ill. App. 3d 11, 23-24 (1984).

Third, the Village asserts that the amount awarded to Thorncreek was unreasonable. However, the Village offers no authority for this assertion other than the argument that Thorncreek should not be awarded fees and costs as a sanction because it failed to take any

action or mitigate its costs in defending the chancery case despite allegedly being on notice as early as March 26, 2008, that the chancery case was duplicative of the administrative review case. The Village's position appears to be that the burden was on Thorncreek to move to dismiss the chancery case as soon as it became aware of the hearing officer's ruling, rather than on the Village not to pursue a meritless case. Leaving the propriety of that contention aside, the record reveals that the trial court conducted an extensive hearing into the question of the amount of sanctions that should be awarded. Indeed, the circuit court even reduced the amount requested by Thorncreek by 10% due to what the circuit court found to be insufficiently accurate billing records. We see no reason based on the record to question the reasonableness of the circuit court's decision on the amount awarded.

Finally, we turn to the Village's contention that the circuit court erred by declining to allow discovery on the issue of Thorncreek's bill of costs. After Thorncreek filed its motion for sanctions, the Village requested copies of the original attorney invoices for inspection. After the parties were unable to resolve the issue themselves, the Village filed a motion to compel with the circuit court. The circuit court noted on the record that discovery was not permitted in response to a motion for sanctions, but decided to order Thorncreek to provide redacted copies of the invoices to the Village. The Village believed that the redacted invoices contained inconsistencies and moved for further discovery of the unredacted invoices. The circuit court denied the motion, noting on the record:

> "THE COURT: I made the point though last time you were here. This is not discovery.
>
> I said you were entitled to see the invoices, which I take it you have. I

have dismissed the Village's complaint. This is not discovery. It's a motion for sanctions.

So there is no need for a [Rule] 214 affidavit. I am – We're not doing a mini trial on sanctions."

The Village cites no authority in support of the proposition that it is entitled to discovery during a motion for sanctions. Even assuming for the purpose of argument that discovery may be allowed, discovery is an issue that is committed to the discretion of the trial court. See *Wisniewski v. Kownacki*, 221 Ill. 2d 453, 457 (2006). In this case, the circuit court allowed the Village to discover redacted copies of the original bills, and the Village also received Thorncreek's billing summary for comparison. Moreover, the circuit court allowed the Village to raise any possible issues with Thorncreek's invoices during the sanctions hearing. Discussion on this issue constitutes the bulk of the 33-page transcript of the hearing in the record, and the circuit court gave full consideration to the Village's arguments. Under these circumstances, we cannot say that the circuit court's decision not to compel Thorncreek to produce the unredacted invoices was an abuse of discretion.

III. CONCLUSION

For the reasons stated above, we affirm the decision of the administrative hearing officer in case No. 1-10-1798. We also affirm the orders of the circuit court in case No. 1-10-2460 dismissing the amended complaint, imposing sanctions on the Village, and denying the Village's motion to compel.

Affirmed.