

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DOUG and GERI BOYER,

Complainants,

v.

MRB DEVELOPMENT, LLC d/b/a
COPPER FIRE; RENAE EICHHOLZ; and
MARK EICHHOLZ,

Respondents.

PCB 22-9

(Enforcement)

**COMPLAINANTS' FIRST REQUEST FOR PRODUCTION DIRECTED TO
RESPONDENTS**

Complainants Doug and Geri Boyer (“the Boyers”) by and through their undersigned attorneys, hereby propound their First Request for Production directed to Respondents MRB Development, LLC (“MRB”), and Renae and Mark Eichholz (“the Eichholz”) (collectively, “Respondents”), as follows:

DEFINITIONS

A. “Complaint” means the Complaint filed in this action and any amendments or supplements thereto.

B. “You,” “Your,” “Respondents,” “MRB,” or “the Eichholz” means Respondent(s) in this action, MRB Development, LLC and Renae and Mark Eichholz, and everyone acting at Your direction or on Your behalf.

C. The “Boyer Residence and Offices” refers to the property located at 208 East Main Street, Belleville, St. Clair County, Illinois 62220, including the first floor which is leased to Kaskaskia Engineering Group, LLC and the upper floors containing eight residential lofts.

D. “Copper Fire Bar/Restaurant,” or “Copper Fire” refers to Respondents’ bar/restaurant located at 200 East Main Street, Belleville, St. Clair County, Illinois 62220.

E. “Communication” includes, but is not limited to, any transmittal, exchange, transfer, or dissemination of information, regardless of the means by which it is accomplished, and includes all communications, whether written, oral or electronic, and including without limitation all discussions, meetings, telephone or radio communications, email, text messages, or messages through social media channels.

F. “Documents” and “records” means the complete original and any non-identical copy (whether different from the original because of changes, notations, markings, or stamps, on the copy of otherwise), regardless of origin or location, of any written, typed, printed, transcribed, filmed, punched, graphic, electronic or other media of every type and description, however and by whomever prepared, produced, disseminated or made, including any electronically stored information, emails, films, videos, pictures, photographs, data, papers, letters, correspondence, memoranda, faxes, inter-office communications, spreadsheets, telegrams, statements, affidavits, pleadings, stenographic or handwritten notes, notations, notebooks, reports, receipts, contracts, files, screen shot, indexes, maps, tabulations, outlines, power points, scripts, diaries, logs, journals, agendas, minutes, code books, labels, invoices, instructions, manuals, books, calendars, schedules, diagrams, studies, publications, pamphlets, drawings, schematics, graphs, charts, tax forms, forms, microfilms, microfiche, computations, tapes, printouts, and any other form of media.

G. “Evidence,” “evidencing,” “relating,” “regarding,” “supporting,” or any conjugation thereof mean consisting of, referring to, reflecting, concerning, relating to, or being in any way logically or factually connected with the matter discussed.

INSTRUCTIONS

A. These discovery requests are to be responded to in detail. If You cannot respond to a discovery request in full, it must be responded to the extend possible, and an explanation provided for Your inability to respond to the discovery request more fully.

B. If You object to any of the Definitions or Instructions herein, You must do so by written response hereto. If said written response to a Definition or Instruction is not made prior to Your response to these discovery requests, it will be presumed that You do not object to any Definition or Instruction.

C. All documents are to be produced as they are kept in the usual court of business with any labels, file markings, or similar identifying features, or shall be organized and labeled or Bates stamped to correspond to the categories requested herein. If there are no documents in response to a particular request, or if you are without any responsive documents or categories of documents based on any objections, You shall state so in writing.

D. Electronically stored information (ESI) is to be produced in its original native format including its accompanying metadata with corresponding load files.

E. These requests call for the production of all responsive documents or tangible things in Your possession, custody, or control.

F. In responding to these requests, include documents or things obtained on Your behalf by Your counsel, employees, agents, or any other persons acting on Your behalf. If Your response is that the requested item is not within Your possession or custody, describe in detail the unsuccessful efforts You made to locate each such item. If Your response is that the requested item is not under Your control, identify who have control and the location of each requested item.

G. If any document or tangible thing was, but no longer is, in Your possession, custody, or control, or in existence, include a statement: (a) identifying the item; (b) describing where the item is now; (c) identifying who has control of the item; (d) describing how the item became lost or destroyed or was transferred; and (e) identifying each of those persons responsible for or having knowledge of the loss, destruction, or transfer of the requested item from Your possession, custody, or control.

H. Each request contemplates production of all documents in their entirety. If a portion of a document is response to one or more requests, the document shall be produced in its entirety.

I. With respect to any information which You deem privileged (or otherwise protected from disclosure) which is response to any discovery request, provide a written statement setting forth as to each document the date that You obtained such document or information, the recipients of such information, a summary of the nature of the privilege (including work product) which is being claimed and, if the privilege is being asserted in connection with a claim or defense governed by state law, indicate the state's privilege rule being invoked. The remainder of the discovery request must be responded to.

J. To the extent You assert that a document contains both information that should be protected from disclosure (based on the attorney-client privilege, work product doctrine, or another protection), and non-privileged information, the non-privileged portions of the item must be produced. For each such document, indicate the portion of the document withheld with notation on the document in an appropriate location that does not obscure the remaining text.

K. If You object to any document request on any other ground other than privilege, You must specify: (a) the part of the request that is objectionable and respond to and allow

inspection of materials responsive to the remainder of the request; and (b) whether any responsive materials are being withheld on the bases of an objection.

L. These discovery requests are deemed to be continuing, and You are required to promptly supplement Your answers to these discovery requests as further information called for by these discovery requests becomes available to You or is within Your knowledge.

REQUESTS FOR PRODUCTION

1. Produce all documents identified by You in Your answers to Complainants' First Set of Interrogatories directed to You.

2. Produce all written and electronic communications between You and the Boyers regarding the allegations in the Complaint and/or the defenses set forth in Your Answer.

3. Produce all written and electronic communications between You and any party to this Litigation or any other third parties (except communications with counsel) regarding the allegations in the Complaint and/or defenses set forth in Your Answer.

4. Produce all documents, communications, and recordings evidencing the sound and/or noise emanating from Copper Fire from January 2020 to present.

5. Produce all documents, communications, reports, and studies on the noise and/or sound levels emanating from Copper Fire that You have procured or obtained.

6. Produce all documents and communications evidencing all sound complaints, concerns, warnings, protests, grievances, criticisms, and/or charges received and/or issued to You and/or Copper Fire from January 2020 to present.

7. Produce all documents and communications regarding any efforts taken or explored for sound proofing or deafening at Copper Fire, including all completed efforts and inquiries into potential options for sound proofing or deafening.

8. Produce all documents and communications regarding Your alleged “many changes” that were made as alleged in Your Answer to Paragraph 17 of the Complaint.

9. Produce all documents and communications evidencing changes You have implemented since the sound testing was conducted as asserted in Your second Affirmative Defense.

10. Provide a list of all bands and performers that have played at Copper Fire from January 2020 to present, including the number of performers, date and time of performance, style of music, types of instruments played, whether the performance occurred inside or outside Copper First, and the contact information for each band.

Dated: April 4, 2022

LATHROP GPM LLP

/s/Matthew Jacober
Matthew Jacober (IL #6256140)
7701 Forsyth Boulevard
Suite 500
Clayton, MO 63105
(314) 613-2845
Matthew.Jacober@LathropGPM.com

Brooke Robbins (MN #401904)
500 IDS Center
80 South 8th Street
Minneapolis, MN 55402
(612) 632-3472
Brooke.Robbins@LathropGPM.com

**ATTORNEY FOR COMPLAINANTS
DOUG AND GERI BOYER**

CERTIFICATE OF SERVICE

It is hereby certified that true and correct copies of the foregoing Appearance were served via email on April 4th, 2022, upon the following:

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, IL 62794
Carol.Webb@illinois.gov

Don Brown
Clerk of Board
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601
Don.Brown@illinois.gov

Paul E. Petruska
Greensfelder, Hemker and Gale, PC
12 Wolf Creek Drive
Suite 100
Belleville, IL 62226
ppetruska@greensfelder.com
Attorneys for Respondents

/s/Matthew Jacober

Matthew Jacober