

STATE OF ILLINOIS  
ILLINOIS POLLUTION CONTROL BOARD

People of the State of Illinois,  
By Kwame Raoul, Attorney General  
Of the State of Illinois,

Complainant,

V.

LALA KALA, INC.,

Respondents.

PCB No. 2022-077  
(Enforcement – Air)

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APPEARANCE

Now Comes Himont Law Group, Ltd. and enters its appearance on behalf of  
Petitioner/Counter-Respondent:

1. LALA KALA, INC.

Respectfully submitted,



Al HB Husain, Esq.

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**DEFENDANT'S §2-615 AND §2-619 MOTION TO DISMISS AND  
MEMORANDUM IN SUPPORT OF 2-615 AND §2-619 MOTION TO DISMISS**

NOW COMES THE DEFENDANTS, Lala Kala, Inc., ("Defendant") through his attorney, Himont Law Group, Ltd., an in support for its motion to dismiss Plaintiff's Complaint, Count V, at law pursuant to 735 ILCS § 5/2-615 and 2-619, states the following:

**Standard of Review**

**2-615**

A motion to dismiss under §2-615 admits all well-pleaded facts and all reasonable inferences from those facts. Calloway v. Kinkelaar, 168 Ill.2d 312 (1995). It does not, however, admit either legal conclusions or factual conclusions absent specific allegations. American Health Care Providers, Inc. v. County of Cook, 265 Ill. App. 2d 919 (1<sup>st</sup> Dis. 1994). If, after disregarding any legal and factual conclusions, the complaint does not allege sufficient facts to state a cause of action, the motion to dismiss should be granted. Cater v. New Trier East High School, 272 Ill. App. 3d 551 (1<sup>st</sup> Dist. 1995). "A complaint should be dismissed for failure to state a cause of action with no opportunity to replead

only if it is clearly apparent that no set of facts can be proven that would entitle plaintiff to recovery.” Jackson v. Michael Reese Hospital and Medical Center, 294 Ill. App. 3d 1, 18 (1<sup>st</sup> Dist. 1997), citing Illinois Graphics Co. v. Nickum, 159 Ill. 2d 469 (1994).

Furthermore, as explained by the First District of the Illinois Appellate Court in Rubino v. Circuit City Stores, Inc., 324 Ill.App.3<sup>rd</sup> 931, 938, 758 N.E.2d 1, 6 (1<sup>st</sup> Dist. 2001), to enforce the requirements of §2-603:

A complaint may be dismissed for failure to meet [it's] statutory pleading requirements. International Society for Krishna Consciousness v. City of Evanston, 89 Ill.App.3<sup>rd</sup> 701, 44 Ill. Dec. 664, 411 N.E.2d 1030 (1980) (action dismissed for failure to meet statutory pleading requirements), *cert denied*, 454 U.S. 878, 102 S.Ct. 358, 70 L.Ed. 188. Moreover, a complaint may be dismissed if it is drafted in such a manner as to render any attempt to answer futile. City of West Chicago v. Clark, 58 Ill.App.3<sup>rd</sup> 847, 16 Ill.Dec. 399, 374 N.E.2d 1277 (1978).

### 2-619

The purpose of a section **2-619** motion to dismiss is to dispose of issues of law and easily proved issues of fact at the outset of litigation. Zedella v. Gibson, 165 Ill.2d 181, 185, 209 Ill.Dec. 27, 650 N.E.2d 1000 (1995). Specifically, section **2-619**(a)(9) of the Code of Civil Procedure permits involuntary dismissal where "the claim asserted against defendant is barred by other affirmative matter avoiding the legal effect of or defeating the claim." 735 ILCS 5/2-619(a)(9) (West 1998). An "affirmative matter," in a section **2-619**(a)(9) motion, is something in the nature of a defense which negates the cause of action completely \* \* \*." Illinois Graphics Co. v. Nickum, 159 Ill.2d 469, 486, 203 Ill.Dec. 463, 639 N.E.2d 1282 (1994).

I. **Complaint Should Be Dismissed as the Respondent is Not the Owner of Premises**

1. Complainant file their Complaint on May 20, 2022 regarding Respondent's property in Lombard, Illinois. (See Attached Exhibit A).
2. Respondent was no longer the owner of the said property as of May 3, 2022. (See Attached Exhibit B).
3. This complaint should be dismissed in regards to Respondent, as Respondent was not the owner at the time of the complaint's initiation.

Respectfully submitted,



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Al-Haroon B. Husain, Esq.  
One of Respondents' Attorneys

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Atty#6272448

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
by KWAME RAOUL, Attorney )  
General of the State of Illinois, )

Complainant, )

v. )

LALA KALA, INC., )  
an Illinois corporation, )

Respondent. )

PCB No. 22-  
(Enforcement - Air)

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois ("Complainant"), complains of the Respondent, LALA KALA, INC., an Illinois corporation, as follows:

**COUNT I**

**FAILURE TO TIMELY DECOMMISSION VAPOR COLLECTION AND CONTROL SYSTEM AND SUBMIT REPORTS**

1. This Complaint is brought on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), against Lala Kala, Inc. ("Respondent" or "Lala Kala"), pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2020).

2. The Illinois EPA is an administrative agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2020), and is charged, *inter alia*, with the duty of enforcing the Act.

EX.A

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Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), and therefore was required to submit a decommissioning checklist, certification, and test results within 30 days after completion of decommissioning procedures, pursuant to Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C).

17. As of the date of the filing of this Complaint, Lala Kala has not submitted a decommissioning checklist, certification, or test results to Illinois EPA.

18. By failing to timely submit a decommissioning checklist, certification, and test results to Illinois EPA, Lala Kala violated Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C).

19. On information and belief, Lala Kala failed to timely decommission its vapor collection and control system, and thereby violated Section 218.586(i)(1)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B).

20. By violating Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C), Lala Kala caused or threatened or allowed the discharge or emission of VOCs into the environment, so as to violate regulations adopted by the Board and has thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, LALA KALA, INC., with respect to Count I:

I. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C);
3. Ordering the Respondent to cease and desist from any future violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B) and 218.586(i)(2)(C);
4. Requiring the Respondent to decommission the Facility's vapor collection and control system pursuant to Section 218.586(i)(1)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), and submit a decommissioning checklist, certification, and test results to Illinois EPA, pursuant to Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C);
5. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
6. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees against Respondent; and

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7. Granting other such relief as the Board deems appropriate and just.

Respectfully submitted.

PEOPLE OF THE STATE OF ILLINOIS  
by KWAME RAOUL, Attorney General  
of the State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: Stephen J. Sylvester  
STEPHEN J. SYLVESTER, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel:

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Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
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### Document Detail

Effective June 1st, to order certified copies, please contact the Recorder Office's Research Department at 630-407-5401.

Doc Number: R2022-047652  
Document Date: 5/3/2022  
Recording Date: 5/13/2022  
Time: 11:25 AM  
Doc Type: 100  
Total Page Count: 4  
Doc Desc: QUIT CLAIM DEED  
Consideration: 0  
Plat Book:  
Return Address: 938 INC  
Address1: 8930 N WAUKEGAN RD  
Address2:  
Address3: MORTON GROVE, IL 60053

### Name of Party

	Name	Type
SIRAN RIVER ESTATE INC		GRNTOR
938 INC		GRNTEE

### Legal Description

Subdivision	ROBERTSONS ST CHARLES ROAD ADDITION WESTMORE L: 20 PT	
Subdivision	ROBERTSONS ST CHARLES ROAD ADDITION WESTMORE L: 21 PT	
Tract	S:4 T:39 R:11	
Address	938 ST CHARLES RD	LOMBARD, IL 60148,
PIN	06-04-311-044	

### Associated Documents

NO ASSOCIATED DOCs FOUND

Ex.B

QUIT CLAIM DEED

ILLINOIS

*Leave Space for Recorder's Use Only*

THE GRANTOR(S) Siran River Estate, Inc an Illinois Corporation of the County of DuPage, State of Illinois, for and in consideration of TEN and 00/100 DOLLARS, and other good and valuable considerations in hand paid, CONVEY(s) and QUIT CLAIM(s) to Corporation as of 8930 N Waukegan Rd., Suite 230, Morton Grove, 60053, Illinois, the following described Real Estate, situated in the County of DuPage in the State of Illinois to wit: (See page 2 for legal description attached here to and made part here of.), hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois.

SUBJECT TO: General taxes for 2022 and subsequent years; Covenants, conditions and restrictions of record.

Permanent Real Estate Index Number(s): 06-04-311-044-0000

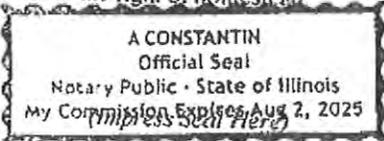
Address(es) of Real Estate:  
938 E. St. Charles Rd., Lombard, IL 60148

EXEMPT UNDER PROVISIONS 35 ILCS 200/31-45 (c), REAL ESTATE TRANSFER ACT. DATE The date of this deed of conveyance is 05/03/2022

Signature of authorized Member Manager Siran River Estate, Inc. - Fahcem Ejaz

(SEAL) Authorized Member/Manager Siran River Estate Inc. - Fahcem Ejaz

State of Illinois, County of Cook, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Fahcem Ejaz personally known to me to be the same person(s) whose name(s) is(are) subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he/she(they) signed, sealed and delivered the said instrument as his/her(their) free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.



Given under my hand and official seal 05/03/2022

*(My Commission Expires Aug 2, 2025)*

*A. Constantin*  
Notary Public

**LEGAL DESCRIPTION**

For the premises commonly known as: 938 E. St. Charles Rd.  
Lombard, IL 60148  
PIN: 06-04-311-044-0000

**Legal Description:**

LOTS 20 & 21 (EXCEPT THAT PART OF SAID LOTS LYING SOUTH OF A STRAIGHT LINE DRAWN FROM A POINT IN THE WEST LINE OF LOT 28, 5 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 28, 5 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 28 TO A POINT IN THE EAST LINE OF LOT 20, 2.90 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 20) IN "ROBERTSON'S ST. CHARLES ROAD ADDITION TO WESTMORE", BEING A SUBDIVISION IN THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 20, 1922 AS DOCUMENT 157522, IN DU PAGE COUNTY, ILLINOIS.

<p>This instrument was prepared by Sran River Estate, Inc. 938 E. St. Charles Rd Lombard, IL 60148</p>	<p>Send subsequent tax bills to: 938 Inc. 8930 N Waukegan Rd. Suite 230 Morton Grove, IL 60053  Illinois</p>	<p>Recorder-mail recorded document to: 938 Inc. 8930 N Waukegan Rd. Suite 230 Morton Grove, IL 60053</p>
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