

ILLINOIS POLLUTION CONTROL BOARD

June 18, 2009

PETER AREDOVICH,)
)
 Complainant,)
)
 v.) PCB 09-102
) (Citizen's Enforcement - Noise)
 ILLINOIS STATE TOLL HIGHWAY)
 AUTHORITY,)
)
 Respondent.)

ORDER OF THE BOARD (by G.L. Blankenship):

On April 28, 2009, Peter Arendovich (Arendovich) filed a citizen's enforcement complaint (Comp.) against the Illinois State Toll Highway Authority (Tollway) concerning noise pollution caused by traffic along the Interstate 355 (I-355) extension, Veterans Memorial Tollway, between the 135th Street Bridge and Archer Avenue, in Lemont, Cook County. Arendovich alleges that, since opening the extension on November 11, 2007, the Tollway has been violating Section 900.102 of the Board's noise pollution regulations (35 Ill. Adm. Code 900.102) by failing to install an adequate sound barrier. Comp. at 2. Arendovich further alleges that the noise generated by the I-355 Tollway has resulted in unreasonable interference with the use and enjoyment of his property and other adjacent properties. *Id.*

On May 27, 2009, the Tollway filed a motion for extension of time (Mot.) requesting an additional 45 days to file a motion to dismiss Arendovich's complaint. According to the motion, the Tollway received Arendovich's complaint on April 29, 2009. Therefore, absent an extension, the deadline for the Tollway to file a motion responsive to the complaint is May 29, 2009. *See* 35 Ill. Adm. Code 101.506, 103.204(d), (e), 103.212(b). The Tollway's motion states that counsel for the Tollway has not previously researched this area of the law. Mot. at 1. The motion further states that, while the Tollway has not completed its research, the Tollway believes it may have a meritorious defense. Mot. at 1-2. The Tollway requests that the Board extend the filing deadline until July 15, 2009.

Section 101.500(d) of the Board's procedural rules provides that, "[w]ithin 14 days after service of a motion, a party may file a response to the motion. If no response is filed, the party will be deemed to have waived objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion." 35 Ill. Adm. Code 101.500(d). Arendovich has filed no response to the Tollway's motion for extension of time, so any objection to the Board's grant of the motion has been waived. *See* 35 Ill. Adm. Code Section 101.500(d).

The Board grants the Tollway's motion for extension of time and gives the Tollway until July 15, 2009, to file a motion. Absent an extension, the deadline for the Tollway to file an

answer to the complaint is June 29, 2009. *See* Ill. Adm. Code 103.204(d), (e), 103.212(b). The Board extends this deadline and gives the Tollway until August 15, 2009, to file an answer.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 18, 2009, by a vote of 5-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board