

MAY -5 2010

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

May 5, 2010

JOSEPH & VICTORIA MORRISSEY,)
)
Complainants,)
)
v.) PCB 09-10
) (Citizens Enforcement – Noise)
GEOFF PAHIOS and ALPINE)
AUTOMOTIVE,)
)
Respondents.)
)

HEARING OFFICER ORDER

On April 27, 2010, all parties participated in a telephonic pre-hearing conference with the hearing officer. Discussions centered on the hearing scheduled for May 12 and 13, 2010. The complainants represented that their expert witness and approximately 3 other witnesses will testify on May 12, 2010. The respondents represented that some of its witnesses will be available to testify on May 12, 2010, while its expert and approximately 3 other witnesses will be available to testify on May 13, 2010. The parties were informed that a court reporter will be present but that any other aids the parties may need to present their respective cases must be supplied by the parties themselves.

Complainants' Motion to Exclude, filed April 26, 2010, was also discussed. In the motion, complainants state that their expert witness has not been provided a copy of his deposition transcript to review. The respondents stated that the transcript would be available to review on or about April 29, 2010. With the respondents representation that the transcript will be available, the motion was considered moot.

Motions in Limine

The parties previously filed motions *in limine* and corresponding responses were also addressed. In summary, respondents' motions include a request that complainant be prevented from calling witnesses not disclosed in discovery and exclude complainant's attempted introduction of video and audio tapes because they lack foundation and were obtained in violation of the Illinois Eavesdropping Act. (Mot. at 1, 2, filed January 8, 2010). Complainants' motion requests that non-party witnesses be excluded from the hearing room. (Mot. at 1, filed January 11, 2010).

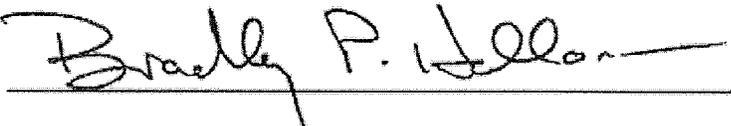
Rulings

The complainants' acknowledge that they did not disclose their full list of witnesses during discovery. During the April 27, 2010, telephonic pre-hearing conference call, complainant Joseph Morrissey stated that he did not disclose any additional witnesses because he thought the respondents would "attack" them. Presumably, Morrissey means that the respondents would have pestered or harassed them.

I grant respondents motion and will not allow complainants to call any witnesses not disclosed during discovery. I will allow, however, non-party participants to give a public comment when and if time allows. The non-party participants will not be under oath and will not be subject to cross-examination. See generally Section 101.628 of the Board's Procedural Rules.

The remaining motions *in line* were deemed premature and will be ruled upon, if needed, at the hearing.

IT IS SO ORDERED.



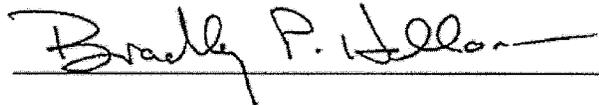
Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601
312.814.8917

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class on May 5, 2010, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on May 5, 2010:

John T. Therriault
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
Chicago, Illinois 60601

A handwritten signature in black ink that reads "Bradley P. Halloran". The signature is written in a cursive style and is positioned above a solid horizontal line.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
312.814-8917

PCB 2009-010
Joseph & Victoria Morrissey
32 S. Chestnut Ct.
Hawthorn Woods, IL 60047

PCB 2009-010
Geoff Pahios, Owner
Alpine Automotive
1320 Ensell Road
Lake Zurich, IL 60047

PCB 2009-010
Bruce A. Slivnick
707 Lake Cook Road
Suite 316
Deerfield, IL 60015

PCB 2009-010
Paul J. Oleksak
100 Atkinson Road
Suite 110F
Grayslake, IL 60030