

**Marek Kruk, Complainant, v. New Trier High School, Respondent
PCB 20-10 (Citizens Enforcement - Noise)**

**Kruk Response to RESPONDENT'S SUPPLEMENTAL
INTERROGATORIES TO COMPLAINANT**

NOW COMES, complainant, Marek Kruk, and hereby responds to the following respondent's supplemental interrogatories to complainant in accordance with applicable Illinois law and all current case management orders of the Hearing Officer in this matter:

**COMPLAINANT'S RESPONSE TO RESPONDENT'S
SUPPLEMENTAL INTERROGATORIES:**

1. Identify all persons who answered, assisted in answering, and prepared answers to these Interrogatories and who responded to, assisted in responding to, and prepared the responses to the District's Requests for Production tendered simultaneously with these Interrogatories.

Answer: Marek Kruk - the complainant

2. Identify each person you believe has knowledge of facts relating to this proceeding, and for each such person describe the subject matter as to which you believe the person has knowledge.

Answer:

Shiner Acoustics experts who conducted acoustical testing for New Trier High School and Shiner acoustics Managing Partner

Brian L. Homans

Cameron J. Baillie

David Paoli - Managing Partner

New Trier High School employees and Board of Education Members:

Dave Conway - Director of Physical Plant Services

Steve Linke - Facilities Manager

Christopher Johnson - Associate Superintendent

Paul Sally - Superintendent

Keith Dronen - Board President

Jean Hahn - Board Vice President

Cathleen Albrecht - Board Member

Kimberly Alcantara - Board Member

Avik Das - Board Member

Brad McLane - Board Member

Sally Tomlinson - Board Member

Greg Robitaille - former Board Member and President

Denise Dubravec - Principal - Winnetka

Niki Dizon - Director of Communications

Village of Winnetka employees:

Brian Norkus - Community Development Assistant Director

David Shoon - Community Development Director

510 Green Bay Road

Winnetka, IL 60093

847-716-3520

Woodland Ave residents:

Marek Kruk's spouse at 124 Woodland Ave - Edyta Kruk

Neighbor residing at 130 Woodland Ave - Heather Walsh

Neighbor residing at 138 Woodland Ave - Cris Downey

Winnetka, IL 60093

Complainant - Marek Kruk

Additional witnesses and experts maybe called upon in the future, as needed, and will be identified accordingly.

3. Pursuant to Illinois Supreme Court Rule 213(f), state the name and last known address of each person you intend to call as a witness at trial

and, for each lay witness, specify the subjects on which the witness will testify.

Answer:

Shiner Acoustics experts who conducted acoustical testing for New Trier High School and Shiner Acoustics Managing Partner:

Brian L. Homans

Cameron J. Baillie

David Paoli - Managing Partner

Shiner Acoustics

225 W. Washington St., Suite 1625

Chicago, IL 60606

(312) 849-3340

New Trier High School Board of Education Members:

Keith Dronen - Board President

Jean Hahn - Board Vice President

Cathleen Albrecht - Board Member

Kimberly Alcantara - Board Member

Avik Das - Board Member

Brad McLane - Board Member

Sally Tomlinson - Board Member

Greg Robitaille - former Board Member and President

New Trier High School employees:

Denise Dubravec - Principal - Winnetka

Paul Sally - Superintendent

Christopher Johnson - Associate Superintendent

Dave Conway - Director of Physical Plant Services

Steve Linke - Facilities Manager

Niki Dizon - Director of Communications

385 Winnetka Ave

Winnetka, IL, 60093

847-446-7000

Village of Winnetka employees:

Brian Norkus - Community Development Assistant Director

David Shoon - Community Development Director

510 Green Bay Road

Winnetka, IL 60093

847-716-3520

Woodland Ave residents:

Marek Kruk's spouse at 124 Woodland Ave - Edyta Kruk

Neighbor residing at 130 Woodland Ave - Heather Walsh

Neighbor residing at 138 Woodland Ave - Cris Downey

Winnetka, IL 60093

All above listed names are well known to the district and may be called upon to testify as either experts or as individuals who are familiar with the case, school operations, and curriculum.

The Shiner Acoustics experts will be called upon to testify on the subject of acoustical testing and measurements and noncompliance.

The above list may be altered/adjusted based on the district's response to Kruk's interrogatories to the district.

Investigation continues

4. Pursuant to Illinois Supreme Court Rule 213(f), for each independent expert witness you identified in response to Interrogatory No. 3, state the subjects on which the witness will testify and the opinions you expect to elicit.

Answer:

The witnesses will testify on admissions that were made by the district regarding the knowledge of the ongoing noncompliance. The opinions expected to be elicited will be centered on the initial non-disclosure of a known noncompliance by the district and subjecting the Kruk family and the public to excessive, harmful noise by failing to act and stop

operating the dust collector. The Shiner Acoustics experts will testify on the subject of acoustical testing and measurements, and noncompliance.

Also see above answer to interrogatory #3

5. Pursuant to Illinois Supreme Court Rule 213(f), for each controlled expert witness you identified in response to Interrogatory No. 3, state the subject matter on which the witness will testify; the conclusions and opinions of the witness and the bases for such conclusions and opinions; the qualifications of the witness; and any reports prepared by the witness about this proceeding.

See above answers to interrogatories #3 and #4

Marek Kruk objects to this question to the extent it calls for a legal conclusion and speculation. Subject to and without waiving these objections, the conclusions will be based on the fact that the district hired a sound expert who advised them that they operated some equipment above allowable noise limits. The district made admissions about being non-compliant on multiple occasions. The district acknowledged and made clear admissions in 2018, 2019, and 2022 that they knowingly continued operating noncompliant equipment.

Investigation continues.

6. Explain with specificity the factual basis for your allegation that the District is currently in violation of the Pollution Control Board's noise regulations at Section 901.102(a) and (b)(35ll. Adm. Code 901.102(a), (b)).

Answer:

Marek Kruk objects to this request because it is unduly broad and seeks information already in possession of, known to, or otherwise equally available to the respondent, the district. Subject to and without waiving

these objections, multiple reports prepared by Shiner Acoustics showed noise measurements above allowable limits as taken at property line of 124 Woodland Ave. Subject to and without waiving these objections, on numerous occasions the district has made verbal and written admissions that they were noncompliant. The initial admission was made by Dave Conway, the Director of Physical Plant Services in the fall of 2018 admitting that the district and the administration were aware of the fact that the dust collector operated above allowable limits. On 04/03/2019, Christopher Johnson, Assistant Superintendent of Finance and Operations (at the time) admitted to being non-compliant in the letter sent to Marek Kruk, Paul Sally, the Superintendent, and Greg Robitaille, the Board of Education President (at the time). The letter was accompanied by the August 15, 2018 Shiner report showing numerical values above allowable limits and discussing noncompliance of the dust collector. Most recently, in the district's response to Marek Kruk's first set of interrogatories dated 12/16/2022, answer to question #10, the district made another admission of noncompliance making the following statement: "the district made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emissions levels." To date, despite making numerous "remedial efforts" to include erecting the noise barrier wall, the district has not produced numeric testing of noise emissions below the standards at the property line of 124 Woodland Ave, which conforms to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

Subject to and without waiving these objections, the Shiner Acoustics report dated August 15, 2018, along with other Shiner Acoustics reports relating to this violation contain data that shows the district's noncompliance and will be presented before the Pollution Control Board for review.

Investigation continues.

7. Describe all numeric measurements taken by you of sound emissions and all measurement techniques including but not limited to site selection, instrumentation set up, measurement site operation and instrument calibration, correction factors, reference time of testing, and compliance with ANSI standards.

Answer:

Marek Kruk objects to this request because it is unduly broad and seeks information already in possession of, known to, or otherwise equally available to the respondent, the district. Marek Kruk further objects to this question to the extent that no testing was required on Marek Kruk's part because New Trier High School hired the experts who conducted noise measurements and advised the district they were noncompliant. In turn, the district has made admissions to Marek Kruk about being noncompliant and later advised that they "made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emissions levels." However, to date, the district has not produced numeric testing of noise emissions below the standards at the property line of 124 Woodland Ave (the Kruk property) which conforms to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

Marek Kruk further objects to this request to the extent that Marek Kruk had no reason to question the district's credibility as it pertained to the district's admissions about being non-compliant, as the district did not contest or dispute any of the Shiner Acoustics reports at that time.

Subject to and without waiving these objections, the Shiner Acoustics report dated August 15, 2018, along with other Shiner Acoustics reports relating to the violation contain data that shows the district's noncompliance and will be presented before the Pollution Control Board for review.

Investigation continues.

8. Identify all persons or entities engaged by you to measure the alleged noise at your property.

Answer:

Marek Kruk objects to this request because it is unduly broad and seeks information already in possession of, known to, or otherwise equally available to the respondent, the district. Marek Kruk further objects to this question to the extent that no testing was required on Marek Kruk's part because New Trier High School hired the experts who conducted noise measurements and advised the district they were noncompliant. In turn, the district has made admissions to Marek Kruk about being noncompliant and later advised that they "made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emissions levels." However, to date, the district has not produced numeric testing of noise emissions below the standards at the property line of 124 Woodland Ave (the Kruk property) which conforms to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

Marek Kruk further objects to this request to the extent that Marek Kruk had no reason to question the district's credibility as it pertained to the district's admissions about being non-compliant, as the district did not contest or dispute any of the Shiner Acoustics reports at that time.

Subject to and without waiving these objections, the Shiner Acoustics report dated August 15, 2018, along with other Shiner Acoustics reports relating to the violation contain data that shows the district's noncompliance and will be presented before the Pollution Control Board for review.

9. For each such person or entity identified in Interrogatory No. 8, describe the procedures used to take such measurements and the findings of those noise tests, including but not limited to site selection, instrumentation set up, measurement site operation and instrument

calibration, correction factors, reference time of testing, and compliance with ANSI standards.

Answer:

See above answer to question #8

10. Is it your contention that the Shiner Acoustics report dated August 15, 2018 strictly complies with the measuring techniques listed in 35 Illinois Administrative Code §910.105? If your response is yes, state the reasoning for your answer.

Answer:

Marek Kruk objects to this question to the extent it calls for a legal conclusion and speculation and to the extent the district requests irrelevant information not reasonably calculated to lead to admissible evidence. Marek Kruk further objects to this question to the extent that no testing was required on Marek Kruk's part because New Trier High School hired the experts who conducted noise measurements and advised the district they were noncompliant. In turn, the district has made admissions to Marek Kruk about being noncompliant and later advised that they "made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emissions levels." However, to date, the district has not produced numeric testing of noise emissions below the standards at the property line of 124 Woodland Ave (the Kruk property) which conforms to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

Marek Kruk further objects to this request to the extent that Marek Kruk had no reason to question the district's credibility as it pertained to the district's admissions about being non-compliant, as the district did not contest or dispute any of the Shiner Acoustics reports at that time.

Subject to and without waiving these objections, the Shiner Acoustics report dated August 15, 2018, along with other Shiner Acoustics reports relating to the violation contain data collected that shows the district's noncompliance and will be presented before the Pollution Control Board for review.

11. Is it your contention that the Shiner Acoustics report dated July 15, 2019 strictly complies with the measuring techniques listed in 35 Illinois Administrative Code §910.105? If your response is yes, state the reasoning for your answer.

Answer:

Marek Kruk objects to this question to the extent it calls for a legal conclusion and speculation and to the extent the district requests irrelevant information not reasonably calculated to lead to admissible evidence. Marek Kruk further objects to this question to the extent that no testing was required on Marek Kruk's part because New Trier High School hired the experts who conducted noise measurements and advised the district they were noncompliant. In turn, the district has made admissions to Marek Kruk about being noncompliant and later advised that they "made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emissions levels." However, to date, the district has not produced numeric testing of noise emissions below the standards at the property line of 124 Woodland Ave (the Kruk property) which conforms to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

Marek Kruk further objects to this request to the extent that Marek Kruk had no reason to question the district's credibility as it pertained to the district's admissions about being non-compliant, as the district did not contest or dispute any of the Shiner Acoustics reports at that time.

Subject to and without waiving these objections, the Shiner Acoustics report dated July 15, 2019, along with other Shiner Acoustics reports relating to the violation contain data that shows the district's noncompliance and will be presented before the Pollution Control Board for review.

12. Is it your contention that the Shiner Acoustics report dated November 18, 2019 strictly complies with the measuring techniques listed in 35 Illinois Administrative Code §910.105? If your response is yes, state the reasoning for your answer.

Answer:

Marek Kruk objects to this question to the extent it calls for a legal conclusion and speculation and to the extent the district requests irrelevant information not reasonably calculated to lead to admissible evidence. Marek Kruk further objects to this question to the extent that no testing was required on Marek Kruk's part because New Trier High School hired the experts who conducted noise measurements and advised the district they were noncompliant. In turn, the district has made admissions to Marek Kruk about being noncompliant and later advised that they "made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emissions levels." However, to date, the district has not produced numeric testing of noise emissions below the standards at the property line of 124 Woodland Ave (the Kruk property) which conforms to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

Marek Kruk further objects to this request to the extent that Marek Kruk had no reason to question the district's credibility as it pertained to the district's admissions about being non-compliant, as the district did not contest or dispute any of the Shiner Acoustics reports at that time.

Subject to and without waiving these objections, the Shiner Acoustics report dated November 18, 2019, along with other Shiner Acoustics reports relating to the violation contain data that shows the district's noncompliance and will be presented before the Pollution Control Board for review.

13. Is it your contention that the Shiner Acoustics report dated December 20, 2019 strictly complies with the measuring techniques listed in 35 Illinois Administrative Code §910.105? If your response is yes, state the reasoning for your answer.

Answer:

Marek Kruk objects to this question to the extent it calls for a legal conclusion and speculation and to the extent the district requests irrelevant information not reasonably calculated to lead to admissible evidence. Marek Kruk further objects to this question to the extent that no testing was required on Marek Kruk's part because New Trier High School hired the experts who conducted noise measurements and advised the district they were noncompliant. In turn, the district has made admissions to Marek Kruk about being noncompliant and later advised that they "made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emissions levels." However, to date, the district has not produced numeric testing of noise emissions below the standards at the property line of 124 Woodland Ave (the Kruk property) which conforms to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

Marek Kruk further objects to this request to the extent that Marek Kruk had no reason to question the district's credibility as it pertained to the district's admissions about being non-compliant, as the district did not contest or dispute any of the Shiner Acoustics reports at that time.

Subject to and without waiving these objections, PCB ruling dated 04/07/2022, concluded that the Shiner Acoustics report dated December 20, 2019 did not prove dust collector compliance as outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

14. Is it your contention that the Shiner Acoustics report dated March 20, 2020 strictly complies with the measuring techniques listed in 35 Illinois Administrative Code §910.105? If your response is yes, state the reasoning for your answer.

Answer:

Marek Kruk objects to this question to the extent it calls for a legal conclusion and speculation and to the extent the district requests irrelevant information not reasonably calculated to lead to admissible evidence. Marek Kruk further objects to this question to the extent that no testing was required on Marek Kruk's part because New Trier High School hired the experts who conducted noise measurements and advised the district they were noncompliant. In turn, the district has made admissions to Marek Kruk about being noncompliant and later advised that they "made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emissions levels." However, to date, the district has not produced numeric testing of noise emissions below the standards at the property line of 124 Woodland Ave (the Kruk property) which conforms to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

Marek Kruk further objects to this request to the extent that Marek Kruk had no reason to question the district's credibility as it pertained to the district's admissions about being non-compliant, as the district did not contest or dispute any of the Shiner Acoustics reports at that time.

Subject to and without waiving these objections, the Shiner Acoustics report dated March 20, 2020, along with other Shiner Acoustics reports relating to the violation contain data that shows the district's noncompliance and will be presented before the Pollution Control Board for review.

15. Is it your contention that the Shiner Acoustics report dated June 24, 2020 strictly complies with the measuring techniques listed in 35 Illinois Administrative Code §910.105? If your response is yes, state the reasoning for your answer.

Answer:

Marek Kruk objects to this question to the extent it calls for a legal conclusion and speculation and to the extent the district requests irrelevant information not reasonably calculated to lead to admissible evidence. Marek Kruk further objects to this question to the extent that no testing was required on Marek Kruk's part because New Trier High School hired the experts who conducted noise measurements and advised the district they were noncompliant. In turn, the district has made admissions to Marek Kruk about being noncompliant and later advised that they "made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emissions levels." However, to date, the district has not produced numeric testing of noise emissions below the standards at the property line of 124 Woodland Ave (the Kruk property) which conforms to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

Marek Kruk further objects to this request to the extent that Marek Kruk had no reason to question the district's credibility as it pertained to the district's admissions about being non-compliant, as the district did not contest or dispute any of the Shiner Acoustics reports at that time.

Subject to and without waiving these objections, the Shiner Acoustics report dated June 24, 2020, along with other Shiner Acoustics reports relating to the violation contain data that shows the district's noncompliance and will be presented before the Pollution Control Board for review.

16. Is it your contention that the Shiner Acoustics report dated March 1, 2021 strictly complies with the measuring techniques listed in 35 Illinois Administrative Code §910.105? If your response is yes, state the reasoning for your answer.

Answer:

Marek Kruk objects to this question to the extent it calls for a legal conclusion and speculation and to the extent the district requests irrelevant information not reasonably calculated to lead to admissible evidence. Marek Kruk further objects to this question to the extent that no testing was required on Marek Kruk's part because New Trier High School hired the experts who conducted noise measurements and advised the district they were noncompliant. In turn, the district has made admissions to Marek Kruk about being noncompliant and later advised that they "made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emissions levels." However, to date, the district has not produced numeric testing of noise emissions below the standards at the property line of 124 Woodland Ave (the Kruk property) which conforms to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

Marek Kruk further objects to this request to the extent that Marek Kruk had no reason to question the district's credibility as it pertained to the district's admissions about being non-compliant, as the district did not contest or dispute any of the Shiner Acoustics reports at that time.

Subject to and without waiving these objections, PCB ruling dated 04/07/2022, concluded that the Shiner Acoustics report dated March 1, 2021 did not prove dust collector compliance as outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

17. Since the inception of this matter, have you hired or do you intent to hire any representative (separate from Shiner Acoustics) to perform numeric measurements of noise emissions at your property in adherence to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection? If your response is yes, state the representative or entities full name, address, and date of any measurements taken.

Answer:

Marek Kruk objects to this request because it is unduly broad and seeks information already in possession of, known to, or otherwise equally available to the respondent, the district. Marek Kruk further objects to this question to the extent that no testing was required on Marek Kruk's part because New Trier High School hired the experts who conducted noise measurements and advised the district they were noncompliant. In turn, the district has made admissions to Marek Kruk about being noncompliant and later advised that they "made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emissions levels." However, to date, the district has not produced numeric testing of noise emissions below the standards at the property line of 124 Woodland Ave (the Kruk property) which conforms to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

Marek Kruk further objects to this request to the extent that Marek Kruk had no reason to question the district's credibility as it pertained to the

district's admissions about being non-compliant, as the district did not contest or dispute any of the Shiner Acoustics reports at that time.

Subject to and without waiving these objections, the Shiner Acoustics report dated August 15, 2018, along with other Shiner Acoustics reports relating to this violation contain data that proved the district's noncompliance and will be presented before the Pollution Control Board for review.

Moreover, subject to and without waiving these objections, Marek Kruk is looking into hiring a noise consultant and will provide the district with the name of the representative who will conduct numeric measurements of noise emissions at the property line of 124 Woodland Ave, as needed.

18. State the following information for the most recent numeric measurements of noise emissions that were taken at your property in adherence to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection;

- The name of the individual or entity that took the measurements;
- The date the measurements were taken;
- The time of day the measurements were taken;
- The height above the ground in which the microphone tripod was set up;
- The person in possession of any report produced subsequent to the measurements being taken.

- Answer:

See above answer to question #17

Also, refer to Shiner Acoustics Reports prepared for the district.

19. Do you understand that you have the burden of proof in this action?

Answer:

Marek Kruk objects to this question to the extent it calls for a legal conclusion and speculation and to the extent the district requests irrelevant information not reasonably calculated to lead to admissible evidence. Marek Kruk further objects to this question to the extent that the district has hired the sound expert to perform noise testing, informed Marek Kruk of the noncompliance, has made multiple noncompliance admissions which the district based on numerous undisputed and uncontested reports produced by their own experts.

Investigation continues.

Respectfully,

Marek Kruk

05/19/2023