

NOTICE OF FILING

Note to the Complainant: This Notice of Filing must accompany the Formal Complaint and the Documentation of Service. Once you have completed the Notice of Filing, the Formal Complaint, and the Documentation of Service, you must file these three documents with the Board's Clerk *and* serve a copy of each document on each respondent.

Please take notice that today I, Anna Adrusko, filed with the Clerk of the Illinois Pollution Control Board (Board) a Formal Complaint, a copy of which is served on you along with this Notice of Filing. You may be required to attend a hearing on a date set by the Board.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney. 35 Ill. Adm. Code 103.204(f).

Anna Adrusko
Complainant's signature

Street 9313 S. SPANGLER AVENUE

City, state, zip code EVERGREEN PARK IL 60805

Date 1/26/24

INFORMATION FOR RESPONDENT RECEIVING FORMAL COMPLAINT

The following information has been prepared by the Board for general informational purposes only and does not constitute legal advice or substitute for the provisions of any statute, rule, or regulation. Information about the Formal Complaint process before the Board is found in the Environmental Protection Act (Act) (415 ILCS 5) and the Board's procedural rules (35 Ill. Adm. Code 101, 103). These can be accessed on the Board's website (www.ipcb.state.il.us). The following is a summary of some of the most important points in the Act and the Board's procedural rules.

Board Accepting Formal Complaint for Hearing; Motions

The Board will not accept this Formal Complaint for hearing if the Board finds that it is either "duplicative" or "frivolous" within the meaning of Section 31(d)(1) of the Act (415 ILCS 5/31(d)(1)) and Section 101.202 of the Board's procedural rules (35 Ill. Adm. Code 101.202 (definitions of the terms "duplicative" and "frivolous")). "Duplicative" means the complaint is identical or substantially similar to a case brought before the Board or another forum. See 35 Ill. Adm. Code 103.212(a) and item 10 of the Formal Complaint.

FORMAL COMPLAINT

Before the Illinois Pollution Control Board

Anna Andrushko)
)
)
)
[Insert your name(s) in the space above])
Complainant(s),)
)
v.)
)
Thomas Egan)
)
)
*[Insert name(s) of alleged polluter(s) in)
the space above]*)
Respondent(s))

PCB 23 - 133
[For Board use only]

Note to the Complainant: If you do not use this Formal Complaint form and instead draft and type your own, it must contain all of the information requested by this form. All items must be completed. If there is insufficient space to complete any item, you may attach additional sheets, specifying the number of the item you are completing. Once you have completed the Formal Complaint, the Notice of Filing, and the Documentation of Service, you must "file" these three documents with the Clerk of the Board and "serve" a copy of each document on each respondent. Specific requirements for the filing, service, and contents of these documents are set forth in the Board's procedural rules (35 Ill. Adm. Code 101, 103) and addressed in the explanatory materials accompanying this form.

1. Your Contact Information

Name: Anna Andrushko
Street Address: 9313 S Spaulding Avenue
County: Cook County
State: Illinois
Phone Number: () -

2. Place where you can be contacted during normal business hours (if different from above)

Name: Anna Andrushko
Street Address: 9313 S Spaulding Avenue
County: Cook County
State: Illinois
Phone Number: () -

3. Name and address of the respondent (alleged polluter)

Name: Thomas Egan
Street Address: 9311 S Spaulding Avenue
County: Cook
State: Illinois
Phone Number: () -

4. Describe the type of business or activity that you allege is causing or allowing pollution (e.g., manufacturing company, home repair shop) and give the address of the pollution source if different than the address above.

Now comes Anna Andrushko, Complainant, Pro Se, with an Amended Complaint. Pursuant to Avery v. GRI Fox Run, LLC APPELLATE COURT OF ILLINOIS SECOND DISTRICT Apr 15, 2020 2020 IL App (2d) 190382 (Ill. App. Ct. 2020).

1 and 2. Ms. Anna Andrushko lives at 9313 S Spaulding Avenue, Evergreen Park, IL 60805. This address is located in Cook County.

3. Mr. Egan lives at 9311 S Spaulding Avenue, Evergreen Park, IL 60805. This address is located in Cook County. He resides next door to my property located at 9313 S Spaulding Avenue, Evergreen Park, IL 60805.

4. The noise violation allegation is from the neighbor, Mr. Egan, located next door to my property.

5. The violations are listed as follows:

Mr. Egan violates the Air Act (noise).

Mr. Egan violates the Illinois Environmental Protection Act: 415 ILCS 5/23, 5/24, 5/25.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), I bring before the Board to enforce Illinois' environmental requirements.

(415 ILCS 5/3.115) (was 415 ILCS 5/3.02) Sec. 3.115. Air pollution. "Air pollution" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, **or to unreasonably interfere with the enjoyment of life or property.** (Source: P.A. 92-574, eff. 6-26-02.)

415 ILCS 5/Tit. II heading) TITLE II: AIR POLLUTION (415 ILCS 5/33) (from Ch. 111 1/2, par. 1033) Sec. 33. Board orders.

(c) In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges or deposits involved including, but not limited to:

(i) the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;

(ii) the social and economic value of the pollution source;

(iii) the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;

(iv) the technical practicability and economic reasonableness of reducing or eliminating the discharges or deposits resulting from such pollution source; and

(v) any subsequent compliance.

415 ILCS 5/24 Sec. 24. No person shall emit beyond the boundaries of his property any noise that unreasonably interferes with the enjoyment of life or with any lawful business or activity, so as to violate any regulation or standard adopted by the Board under this Act.

415 ILCS 5/25 Sec. 25. The Board, pursuant to the procedures prescribed in Title VII of this Act, may adopt regulations prescribing limitations on noise emissions beyond the boundaries of the property of any person and prescribing requirements and standards for equipment and procedures for monitoring noise and the collection, reporting and retention of data resulting from such monitoring. The Board shall, by regulations under this Section, categorize the types and sources of noise emissions that unreasonably interfere with the enjoyment of life, or with any lawful business, or activity, and shall prescribe for each such category the maximum permissible limits on such noise emissions. The Board shall secure the co-operation of the Department in determining the categories of noise emission and the technological and economic feasibility of such noise level limits. In establishing such limits, the Board, in addition to considering those factors set forth in Section 27 of this Act, shall consider the adverse ecological effects on and interference with the enjoyment of natural, scenic, wilderness or other outdoor recreational areas, parks, and forests occasioned by noise emissions from automotive, mechanical, and other sources and may establish lower permissible noise levels applicable to sources in such outdoor recreational uses. No Board standards for monitoring noise or regulations prescribing limitations on noise emissions shall apply to any organized amateur or professional sporting activity except as otherwise provided in this Section. Baseball, football or soccer sporting events played during nighttime hours, by professional athletes, in a city with more than 1,000,000 inhabitants, in a stadium at which such nighttime events were not played prior to July 1, 1982, shall be subject to nighttime noise emission regulations promulgated by the Illinois Pollution Control Board; however, the following events shall not be subject to such regulations: (1) baseball World Series games, league championship series games and other playoff games played after the conclusion of the regular season, and baseball All Star games; and (2) sporting events or other events held in a stadium which replaces a stadium not subject to such regulations and constructed within 1500 yards of the original stadium by the Illinois Sports Facilities Authority. For purposes of this Section and Section 24, "beyond the boundaries of his property" or "beyond the boundaries of the property of any person" includes personal property as well as real property.

Section 900.102 Prohibition of Noise Pollution No person shall cause or allow the emission of sound beyond the boundaries of his property, as property is defined in Section 25 of the Illinois Environmental Protection Act, so as to cause noise pollution in Illinois, or so as to violate any provision of this Chapter.

EPA Identifies Noise Levels Affecting Health and Welfare, [EPA press release - April 2, 1974]
levels of 55 decibels outdoors and 45 decibels indoors are identified as preventing activity interference and annoyance.

An average size **dog barks at "120 db** and 500 Hz." Damage to the human ear can occur at 85 db. Therefore, a continually barking dog can cause stress.

Mr. Egan violates Private Nuisance laws that protect a person's right to use and enjoy his or her property. Mr. Egan interferes with that right.

Mr. Egan violates the **Evergreen Park Municipal Codes: Sec. 12-188, (4)** "Noise emanating from private property shall not cause distress to persons on neighboring property.

(1) No such amplification device shall be employed on or after 8:00 p.m. on any prevailing day and 8:00 a.m. the next day.

(2) No permittee shall use, operate, or employ such device within a radius of 2 blocks from any hospital or rest home, or within a radius of 2 blocks of a church when such church is in session.

(3) No permittee shall allow any lewd, obscene, profane, indecent language or sounds, advertisement or false representation of any matter to emanate from such device.

*(4) No such permittee shall allow the noise from such sound device to be amplified greater than is tolerable to the human ear by an ordinary person within hearing distance and, in any event, no greater than 85 decibels based on sound levels measured with a sound level meter by such person at the source of such sound, **nor shall such noise cause distress to persons on neighboring property.***

Mr. Egan violates Temporary Private Nuisance laws that protect a person's right to use and enjoy his or her property. Mr. Egan interferes with that right.

Mr. Egan violates the Noise disturbance ordinance in **Evergreen Park. 6-1A-11: Disturbing the Peace. A.** No person shall keep any animal shut up or tied in a yard, house, shed, barn or other place, which by barking, meowing or by other noises shall constantly disturb the peace and quiet of any family, individual or neighborhood.

Mr. Egan has never been given a citation nor warning. Mr. Egan does not answer the door when the Village of Evergreen Park Police have attempted to contact him with noise complaints.

The village of Evergreen Park does not have a dog barking noise ordinance. The police nor animal control warden have animal training or certifications.

6. The type of pollution from noise is as follows:

Noise and Vibrations from stereo and honking car horn.

Noise from barking dog.

Daily noise activity.

A common problem is that noise complaints are not handled properly by many police departments. Police officers in Evergreen Park are not properly trained to use a decibel meter if the noise ordinance requires it to determine enforcement. Officers do not always follow the correct procedure in handling noise complaints.

It seems that noise pollution enforcement is not mandated by police officials, even with a noise ordinance. They have elected to ignore my noise problem. If you call them repeatedly, they can ignore you or respond only to the extent that they assume you will not bother them further. That has been the case.

A call to police for a noise complaint, is either categorized as a crime in progress report or a **quality of life complaint**.

Noise complaints are closed out without any investigation, dismissed outright. Patrol supervisors have discretion which complaints are handles and how they are prioritized.

The police commander at the station has refused to meet with me regarding noise complaints that have escalated, as well as the Evergreen Park Mayor. I have shown the administration that I am not going away.

Over the last 10 years, Mr. Egan has entered in a pattern of behavior to force me to move from my home starting with annoying and loud stereo that permeates through his "frame" house; they are built with much less mass and density than a concrete house, that transfers more airborne noise. When harassment by Mr. Egan did not force me to move, Mr. Egan acquired a dog to harass me and my cats by letting his dog loose into the back yard running/chasing and jumping along the fence constantly barking while my cats and I are in the yard doing yardwork and/or relaxing.

Daily; loud, piercing, and excessive dog barking. During daylight hours when I am present or my animals are present. When I leave the yard and the cats are out of the dog's sight, the dog goes back indoors.

Mr. Egan has changed his tactic of torment towards me and my cats, that includes tormenting my cats by escalating his strategy and implementing a barking dog to cause more destruction.

Mr. Egan now owns a mid-sized dog, looks like a Lakeland Terrier (England, Fox/otter hunter).

Mr. Egan encourages the aggressive behavior and does nothing to deter the dog from being aggressive and chase me or my cats along my property and fence, on a daily basis. Until I withdraw from doing my yard maintenance and remove myself from the area where the dog can visibly see me and my cats, will the dog stop barking and eventually go back inside the house.

However, the dog knows commands and will stop with a whistle from the owner and keep quiet. The dog barks on command. Mr. Egan can stop the barking, jumping, and chasing along the fence. Mr. Egan chooses not to do so.

Mr. Egan engages in arguments and profanity when I have instructed him the loud continuous barking is a code violation and barking above the 50 decibels (outside), further allowing the dog to continue to bark and run along my fence line and property lot line until I left my yard or the cats left the yard. **An average size dog barks at "120 db and 500 Hz.**

Mr. Egan is irritated by all forms of animals and wildlife, including cats, that which I enjoy in my yard and have a habitat conducive to attracting all forms of wildlife, mostly to occupy my cats and keep them entertained while I enjoy the wonders of nature.

I have evidence that a squirrel was shot while traveling on the top of the fence, midway in the yard, the squirrel was left dead on my yard.

April 23, 2020, Mr. Egan called police and asked for advice about how to deal with a bad neighbor, Anna Andrushko.

Mr. Egan has been making up false statements to the police and in police statement. He has instigated rumors, now involved in a conspiracy with others to spread viscous lies in the neighborhood to create hate towards me in an effort to gain sympathy.

May 1, 2020, Mr. Egan was delivered a cease-and-desist from Shimanovsky & Moscardini, LLP.

Ms. Andrushko alleges that you have not abided by state statutes; 415 ILCS 5/23, to wit, "...to prevent noise which creates a public nuisance;" and 45 ILCS 5/24/ which states, "No person shall emit beyond the boundaries of his property any noise that unreasonably interferes with the enjoyment of life..."

Municipal Codes: Sec. 1 188, "Noise emanating from private property shall not cause distress to persons on neighboring property.

The formal demand that you (Mr. Egan) immediately and forever cease and desist with further violations of codes and statues infringing upon Ms. Andrushko's right to quiet and peaceful enjoyment of her property.

For years on a daily basis, the dog barks as early as 6:00 a.m. when the cats are roaming, resting, or moving about my property. The dog will continue to bark and growl as I move about my yard and along my fence line, following me as I do my yard work. Any movement made by the cats will cause the dog to bark. When I let the cats on the second story balcony, the dog is jumping high into the air, as if to jump over the fence to get to the cats.

I was constantly calling the police. Some (not all inclusive) of the reports showing a pattern of noise violations over 10 years. The Police at the Village of Evergreen Park have called him into the station a number of times and that has not deterred Mr. Egan from stopping this behavior and following the law.

I have many videos of the constant barking, running along the fence line, jumping the top of the fence to try to get over the fence into my yard. Stationed at the fence barking as I am working on my garden with no intervention by Mr. Egan.

Event Report 2014-153112 dated 09/21/14, Event Report 2017-022715 dated 02/14/17, Event Report 2017-111995 dated 07/17/17, Event Report 2021 dated 02/27/21, 2021-036117 dated 03/08/21, Event Report 2021-043479 dated 03/21/21, Event Report 2021-043479 dated 03/31/21, Police Case Report# 23-01547 dated 04/07/23, Police Case Report# 23-02232 dated 05/18/23.

Police Report Case# 22-02720, dated June 18, 2022, Mr. Egan threatened me last June in an angry tone after I definitively confirmed and made the statement clear that "I am not moving!", Mr. Egan got enraged and angrily responded: "I hope you die!" I hope you die today!" In that report, the officer stated that "Mr. Egan who did not deny stating that he hopes she dies but stated that it was not a threat and that the whole block probably does [die]."

8. Effects of noise pollution on human health, planet, animal life, environment, on any lawful business or activity is harmful.

Noise is harmful to health, and it diminishes quality of life.

Impact of Noise on Health: The Divide between Policy and Science. By Bronzaft, A. (2017) **Noise has been defined as an unwanted, uncontrollable and unpredictable sound that disturbs and annoys an individual.** With this definition, there has been a tendency to view noise as an annoyance and, secondly, as a sound that is deemed annoying to an individual on a personal level. Thus, it has been said that one person's music is another person's noise. **Viewing noise as personal to the listener and as simply annoying has resulted in ignoring the potential harm of this pollutant.** However, a growing body of research has sufficiently demonstrated that noise is more than annoying—it is a **mental and physical health hazard.** Furthermore, while there may be some people who are less impacted by intrusive sounds and some who are very much disturbed by surrounding sounds, we find that the **larger number of people in the middle range of the normal curve is indeed affected by transportation noises, construction noises, community noises, and neighbor noises.**

Yet, will the outcry from citizens concerned about the deleterious effects of noise on health convince governments to pass policies to address noise pollution? Will public officials recognize that sound data already exist to justify passing and enforcing such policies? I will urge public officials to heed former Surgeon General William H. Stewart's quote noted earlier.

"Must we wait until we prove every link in the chain of causation? I stand firmly with Surgeon General Burney's statement of 10 years ago. In protecting health absolute proof comes late. To wait for it is to invite disaster or to prolong suffering unnecessarily."

The World Health Organization (WHO) declared noise pollution the number-two threat to public health. And, the problem, directly related to anxiety, is getting worse – right as nationwide anxiety levels have spiked. Cancer, heart disease, obesity and myriad other conditions can be exacerbated by stress. In response to loud threats, we evolved to spurt out adrenalin, cortisol, and other stress hormones – chemicals that jacked up our bodies so we could fight or flee. A constant gush of stress hormones actually restructures the brain, contributing to tumor development, heart disease, respiratory disorders, and more.

Women Whose Noise Complaints Have Been Dismissed Are Asked to Advocate for A Quieter Environment by Arline L Bronzaft, Ph.D. While both men and women have come to me exasperated with having to deal with their noise problems, I have found that many more women seek out my help and a

large number are older women. I tell them they have a right to live without intrusive, harmful noises and that they should not be intimidated by those in charge who have ignored their complaints. Most of the recipients of my letters and phone calls are male. They frequently label the women who have complained as just being “sensitive” to sound. While there are people who are more sensitive to sounds, and others that are less sensitive, I explain during these calls that the majority of people fall in the middle range and these people are being “reasonable” about the sounds that are bothersome. Let me assure you that noise is an irritant that has been intruding on the lives of many people worldwide, causing them stress, a loss of sleep, physical and mental discomfort, and a diminished quality of life. Going to www.growNYC.org/noise, will introduce you to the relevant research on noise impacts. Knowing that there is literature linking noise to adverse health impacts will be helpful in addressing the noise problem. Secondly, one must become familiar with the bylaws governing noise restrictions, whether it be noise from overhead airplanes and helicopters, neighbors who play their loud music into the early hours, or construction sounds that not only rattle one’s windows but also one’s “nerves.” People are too often left to their own means to find out about their rights re: noise intrusions—intrusions that disrupt their daily activities, their sleep, their desire for some peaceful, restful relaxation, and more recently, with so many people now working out of their homes, their livelihood.

How City Noise is Slowly Killing You, by Arline L. Bronzaft, Ph.D. World Health Organization (WHO) has published data linking environmental noise with cognitive impairment, disturbed sleep, tinnitus, and cardiovascular disease; in Germany alone, traffic noise causes about 1,629 heart attacks each year, one study found. “Even if you don’t have health problems yet, you’ll have diminished quality of life [from noise pollution],” says Arline L. Bronzaft, Ph.D., an environmental psychologist who’s studied the topic for more than three decades.

EPA Identifies Noise Levels Affecting Health and Welfare, [EPA press release - April 2, 1974] levels of 55 decibels outdoors and 45 decibels indoors are identified as preventing activity interference and annoyance.

An average size dog barks at “120 db and 500 Hz.” Damage to the human ear can occur at 85 db. Therefore, a continually barking dog can cause stress and loss of sleep.

According to NoiseOFF,

*You have the right to the peace and enjoyment of your own home. **In any conflict between two parties, there is usually a hidden third party that is behind the turmoil.** Disputes between neighbors are often caused by boom cars, car alarms, and loud exhaust systems. The prevalence of these technologies has turned neighbor against neighbor, whereby the companies that produce these products quietly profit and assume no liability.*

*Animal Noise; **One of the biggest sources of neighbor complaints is barking dogs.** The real problem is the **negligent owner who is indifferent to the welfare of their dog.** Some owners will even cast their pet outside all night and assume it can act as an effective guard dog.*

Some breeds are more likely to bark more than others, such as Shelties and Collies. However, all dogs can learn to reduce barking when it is properly trained and socialized.

Affected owners and neighbors can install electronic devices that use a specially designed microphone and speaker that picks up a dog's bark and then sends out a corrective tone to keep the dog from barking.

People who create or allow noise to intrude on a neighbor are indifferent to the rights of others. It is a form of passive aggressive behavior.

Most municipalities view noise complaints as a quality-of-life issue, but for people exposed to noise on a constant basis - it is a form of assault. They feel they are the only one suffering and often feel helpless and trapped in their own homes and apartments.

NSW EPA, Dealing with barking dogs; Barking is one-way dogs communicate but excessive barking can disturb neighbors and cause annoyance.

***Why dogs bark; Barking:* can signify anything from playfulness to danger. provoked, deliberately or unintentionally, by people or roaming dogs.**

- *under exercised or not exercised at all*
- *untrained*
- *lonely or bored*
- *sick*
- *hungry, thirsty, on the wrong diet or generally neglected*
- *kept in circumstances that are unsuitable for their particular breed*
- *victims of abuse.*

Compassion and common sense can eliminate many causes of excessive barking. A well cared for dog will generally not bark unreasonably and disturb neighbors.

Dogs need a place of their own. This can be a ventilated and waterproof kennel outside or an indoor area. Under section 8 of the [Prevention of Cruelty to Animals Act 1979](#), a dog must be provided with adequate shelter, that is, a structure that protects them from wind, rain and sunshine.

Dogs need regular and adequate exercise according to their breed and size.

To prevent dogs from getting bored, give them toys to play with or a puzzle to solve such as a puzzle feeder.

***Curing the barking habit:* If your dog is well cared for but continues to bark excessively, try**

- *removing the direct line of sight between the dog and children or animals, as looking at other animals or children may provoke barking*
- *take the dog to a recognized animal trainer to discourage bad habits*
- *provide noise insulation for the kennel*
- *take the dog to the vet - they may be sick*

Dog Training Excellent: Excessive Dog Barking is Causing You Stress; Did you know that excessive dog barking can cause you intense stress? Whether it's your neighbor's dog that wakes you up in the middle of the night or your own hound that startles you while you work at home, you need to stop dog barking noises for your own health.

The adverse effects of noises are many: sleep deprivation, hearing impairment, psychological and performance problems. This means that you may be affected in many areas of your life including your relationships and your work.

Dog barking becomes a problem when it is too frequent. All dogs bark at some point and this is OK, it is one of the ways in which [they communicate](#). It becomes a problem when it's constant.

Intermittent noises (like a dog barking) have more adverse effects than continuous noises (like a machine sound on the background).

Grown NYC, Solving Noise Problems, Consider Quiet for Others

- Respect your neighbor's right to quiet, e.g. Keep your radios, stereos and television turned down.
- Don't vacuum late at night. Soft coverings should be placed on floors. Keep your pets as quiet as possible.
- Don't honk horns except in emergency.
- Educate friends and neighbors about hazards of noise

American Kennel Club, Excessive Dog Barking, by Sassafra Lowrey, CTDI, Updated Nov 09, 2023, [Barking is natural](#) for dogs, but sometimes barking can be a thing of excess, which can lead to frustrated owners, and sometimes neighbors. Generally, excessive or nuisance dog barking involves a dog repeatedly barking for prolonged periods of time that interfere with neighbors engaging being able to enjoy their own property.

BabelBark: The Dangers of Dog Barking: How It Can Cause Vertigo. There are a number of possible causes of vertigo, and one of them is indeed exposure to loud noises – including the sound of a dog barking. This is because loud noises can damage the delicate hair cells in the inner ear that are responsible for maintaining balance. When these hair cells are damaged, they can no longer send the correct signals to the brain, resulting in a feeling of dizziness or vertigo. In severe cases, loud noises can also cause permanent hearing loss.

Reasonable or Unreasonable?

Noise problems exist around the world. MidDevon.gov.uk, Too much? It is normal and natural for a dog to bark from time to time for instance, when the postman is delivering mail or when guests arrive. However, noise from barking dogs can be common source of disturbance, stress and nuisance. So how much is too much? Problems arise when dog barking becomes excessive and unreasonable. Even if you can put up with excessive barking it is not reasonable to expect your neighbors to do likewise.

Examples of excessive barking can include: frequent intermittent barking over lengthy periods; sustained barking over more than a minute or two; barking early in the morning or late at night.

Training is essential

The importance of training cannot be over emphasized. Your dog needs to learn not to bark at just anything that moves.

GrowNYC, Solving Noise Problems, Consider Quiet for Others,

- **Respect your neighbor's right to quiet, e.g. Keep your radios, stereos and television turned down.**
- Don't vacuum late at night. Soft coverings should be placed on floors. **Keep your pets as quiet as possible.**
- **Don't honk horns except in emergency.**
- Educate friends and neighbors about hazards of noise

*EPA Clean Air Act Title IV – Noise Pollutions, 1990 Clean Air Act Amendments added a new title IV. What is Noise Pollution? **The traditional definition of noise is “unwanted or disturbing sound”.** Sound becomes unwanted when it either interferes with normal activities such as sleeping, conversation, or disrupts or diminishes one’s quality of life. Though for some, the persistent and escalating sources of sound can often be considered an annoyance. This “annoyance” can have major consequences, primarily to one’s overall health. Noise pollution adversely affects the lives of millions of people. Studies have shown that there are direct links between noise and health.*

The Role of EPA

*Under the Clean Air Act, the EPA administrator established the Office of Noise Abatement and Control (ONAC) to carry out investigations and studies on noise and its effect on the public health and welfare. Through ONAC, the EPA coordinated all Federal noise control activities, but in 1981 the Administration concluded that noise issues were best handled at the State and local level. As a result, **ONAC was closed and primary responsibility of addressing noise issues was transferred to State and local governments.** However, EPA retains authority to investigate and study noise and its effect, disseminate information to the public regarding noise pollution and its adverse health effects, respond to inquiries on matters related to noise, and evaluate the effectiveness of existing regulations for protecting the public health and welfare, pursuant to the Noise Control Act of 1972 and the Quiet Communities Act of 1978.*

Determining if noise is unreasonable noise: 6.2. Factors that determine if noise is unreasonable noise
Factors include: volume, intensity, duration, character, time and place, and how often it occurs.

Dog Barking:

It has been established that an average size dog barks at “120 db and 500 Hz.” Damage to the human ear can occur at 85 db.

Volume; refers to how far the noise spreads throughout the affected location, both indoors and outdoors.

High volume noise can travel throughout a building or a neighborhood. Having nowhere to escape from the noise increases its impact on people. The noise does not need to be loud in all surrounding areas to be unreasonable.

I have to remove myself from the fence or yard to keep the dog from barking that can trigger vertigo. The dog's barking scares my cats. Thus, unreasonably interferes with the enjoyment of life or property.

Intensity

Intensity refers to how loud the noise is.

More intense noise can be intrusive, can disturb sleep and interfere with hearing, such as listening to music, the television and having a conversation.

Intensity can also relate to the emergence of an intrusive noise over background sounds.

Duration

Duration refers to how long the noise continues.

The duration of noise can be a problem when it continues for long periods (for example, hours at a time) without breaks to provide rest and respite from the noise.

Short bursts of noise may not be considered unreasonable especially if the noise is not intense and/or is not emitted often.

Character

Character is an objective description of what the noise sounds like. For example, the character of the noise can be considered:

- *tonal - if it can be described as squealing, whining, humming, droning or throbbing*
- *intermittent - if it suddenly becomes noticeably louder and maintains the louder level for at least one minute*
- *impulsive - if it has a sudden burst of sound that can be described as banging, hammering or thudding*
- *a rattle - if it has a rapid succession of short, sharp sounds, usually from something shaking or vibrating.*

The time, place and other circumstances in which noise is emitted

Time refers to when the noise occurs.

How often the noise is emitted

This factor refers to how often the noise recurs.

Noise occurring frequently can be a problem, particularly when it happens for multiple days.

When assessing the potential for statutory nuisance the Environmental Services Officer from the Local Authority will need to base their judgement on a number of factors.

These include:

- How loud the noise is and how long it lasts
- How intrusive it is
- How frequent the intrusion is
- The area you live in
- **Whether it is a one-off or continuing problem**
- The time of day
- **Whether it is deliberate or not**
- **What steps the alleged perpetrator has taken to avoid or reduce the nuisance**
- The activity causing the noise nuisance

9. Describe the relief that you seek from the Board (e.g., an order requiring that the respondent stop polluting, take pollution abatement measures)

I have also suffered inconvenience, health issues, annoyance, discomfort, disruptions to their peace and quiet, invasions of privacy, and the inability to fully use and enjoy their property.

Noise and air pollution, are substantial, continuing, and unreasonable invasions of plaintiffs' interest, use, and enjoyment of their property

According to the EPA, National Service Center for Environmental Publications (NSCEP), the Mr. Egan created excessive noise previously from stereo and recently increased his noise pollution and escalated to include dog barking and honking of car horn when I was outside and the owner drove past my house. The public nuisance existed over 10 years; daily, by an average size dog barks at "120 db, violates the EPA levels of 55 decibels outdoors and 45 decibels indoors, quality-of-life issue, but for people exposed to noise on a constant basis - it is a form of assault, is unreasonable; high volume, high intensity, duration which is short bursts of noise that is intense and if emitted often throughout the day, while I am outside, working in my yard, especially near the fence, as are my cats in my yard as they walk and relax about the yard, constantly reoccurring daily, for years, barking is constant reoccurring, deliberate (dog stops barking on command) when my cats and I are in my yard (not in the overnight hours when the dog is kept indoors), used as a form of harassment and bullying forcing me to move, even escalating to death threats when I said I was not moving, and the owner of the dog has taken absolutely no action or steps to reduce nor stop the dog barking.

The pollution created a hazard to the health and safety of the public.

A public nuisance is defined as an activity, conduct, or a set of circumstances that causes significant interference with or damage to the health, safety, peace, convenience, or comfort of the public. A public nuisance constitutes interference with a right common to the general public.

Under the law, Mr. Egan's stereo, car horn blaring, and dog barking unreasonably creates sounds which endangers the health or safety of any person or property or sound which injures any person or property, it creates a public nuisance.

The elements of public nuisance by Mr. Egan and his dog caused a public nuisance if

1. Interference with a right common to the general public took place;
2. That the interference was unreasonable; and
3. That the public right is a substantial right.

These factors existed at the time in question and that the public health, safety, peace, convenience or comfort was endangered, then the Board must find that a public nuisance exists.

Evidence of Nuisance is Violation of Ordinance; the Board finds that

No person shall unreasonably make, continue, or cause to be made or continued, any noise disturbance. Noise disturbance means: any sound which (a) endangers or injures the safety or health of humans or animals, or (2) annoys or disturbs a reasonable person of normal sensitivities, or (3) endangers or injures personal or real property.

If board finds from the facts that Mr. Egan was engaged in any of these prohibited activities, then the board will find Mr. Egan has committed a public nuisance.

Property Line Standards – Violation of Ordinance: No person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limits set fourth for the receiving land use.

1. That a person operated or caused to be operated on private property a source of noise
2. That if the noise occurred in a residential zone or in a public space, agricultural or industrial zone, the noise exceeded the sound level limits for the day or evening; and
3. That the noise exceeded the standard set for the receiving land use category when measured at or within the property line.

If the board finds that these three facts occurred at the time in question, then the board must find that the defendant violated the property line standards provision of the statute.

Request #1. Noise Abatement Order.

Protection of the Environment Administration Act 1991, I request the board for a Noise Abatement Order to stop offensive noise or prevent it from occurring.

Offences: Failing to comply with a compliance notice is a maximum penalty of \$55,000 for an individual.

Respondent to pay a civil penalty; money to compensate for loss of the use and enjoyment of property, adverse health effects and a decrease in property value

Original Request: Respondent to take any and all necessary measures to stop dog from barking and alleviate the reasons for the barking situation. Also stop the excessive music coming from his property that penetrates into my home causing noise and vibrations.

Updated Request: To further clarify from my original complaint, I ask the Board for a **Noise Abatement Order against Mr. Egan to stop offensive noise and prevent it from occurring**. Mr. Egan has many options to rectify the dog barking at the fence line, every day, when I in my yard or my cats are in my yard. Many options have been discussed in this complaint to help the dog. Mr. Egan can easily add landscape as a buffer between the dog and the fence.

Make sure the dog is not annoying the neighbors:

Basic health and welfare

Make sure there is adequate food, water, shelter, yard space, exercise, and companionship for the dog.

Keep things interesting

Have plenty of chew toys for your dog to play with. Raw bones, toys, chew ropes provide good mental stimulation.

Daily exercise

Dogs need daily exercise. A walk each day is essential for good health and good behavior. A ten-minute walk twice a day will help as a walk past two or three houses gives a great variety of new smells to look forward to. Larger dogs such as cattle dogs, border collies, and kelpies need more exercise than other dogs. Vigorous runs at an off-leash area help reduce problem barking.

Daily training

Training can be done easily at home. Teaching the dog to come, sit, and stay will help give good boundaries for your pet. You can also contact dog obedience clubs for more formal and intense training.

Barking Dogs & Your Sleep

Barking dogs are a major source of noise pollution day in and day out. In the US alone, the dog population is approximately 78 million—with a high percentage of dogs barking excessively. Barking dogs top-the-list of [nuisance-noise](#) because the human ear finds this sound particularly annoying—especially when it’s keeping us awake.

Dogs are territorial

Dogs are protectors and don’t take kindly to other critters invading their space—such as roaming bands of feral cats, and food-robbing racoons.

If your pet is keeping you and your neighbors up at night, you probably need to bring them indoors. Noise Free America recommends everyone practice the golden rule when it comes to barking dogs.

Request #2. Board to adopt a state wide Noise and Vibrations Control, similar to that of the City of Chicago Rules.

Where Chicago uses the “A-Weighting” scale, we need to be using the “C-Weighting” scale. Response of the human ear varies with the sound level. The A-Weighted response is used for most applications, C-Weighting is also available on many sound level meters. C-Weighting is usually used for Peak measurements and also in some entertainment noise measurement, where the transmission of bass noise can be a problem; that would include [vibrations](#) in addition to noise.

for Peak measurements and also in some entertainment noise measurement, where the transmission of bass noise can be a problem; that would include vibrations in addition to noise.

Request #3. I ask the Board for state wide Noise Abatement Order, accepted by The Village of Evergreen Park, Noise and Decibel Levels that are set forth by the Centers for Disease Control and Prevention (CDC). The US Environmental Protection Agency (EPA) and the World Health Organization (WHO) recommend maintaining environmental noises below 70dBA over 24-hours (75 dBA over 8-hours) to prevent noise-induced hearing loss. The EPA also specified limits for speech interference and annoyance at 55dBA for outdoors activities and 45 dBA for indoor activities.

Request #4. I ask the Board to force the Village of Evergreen Park to adhere to the Sec. 12-188.

Loudspeakers; sound trucks. (a) Permit for amplification of sound. It shall be unlawful for any person to maintain, operate, use or employ any loudspeaker, electronically or mechanically operated, producing sound, which sound is amplified and heard over any public street, public place or private property other than the property of the person so maintaining, operating, using or employing the same, without first having obtained a permit. Noise emanating from private property shall not cause distress to persons on neighboring property.

More specifically, I ask the board to clarify and make the citation enforceable on the basis of the statement that "Noise emanating from private property shall not cause distress to person on neighboring property, regardless of the type of noise, is a violation in itself.

Request #5. I ask the Board for a state wide Noise Abatement on Animal Noises:

Highlight Animal noise that is unreasonable and plainly audible from within nearby residential property may call for enforcement action if the noise occurs:

After 7:00 am and before 10:00 pm for a continuous period of 10 minutes or more.

After 10:00 pm and before 7:00 am for a continuous period of five minutes or more.

You would think that the kids are being murdered or abducted, that then alerts a person to run to see what is happening. There are seniors and family members that are battling an illness and require reasonable sound tolerance.

10. Identify and identical or substantially similar case you know of.

Pursuant to Avery v. GRI Fox Run, LLC APPELLATE COURT OF ILLINOIS SECOND DISTRICT Apr 15, 2020 2020 IL App (2d) 190382 (Ill. App. Ct. 2020).

According to the appeal, Illinois is a fact-pleading jurisdiction. Weiss v. Waterhouse Securities, Inc. , 208 Ill. 2d 439, 451, 281 Ill.Dec. 571, 804 N.E.2d 536 (2004). Although pleadings are to be liberally construed, with the aim of doing substantial justice between the parties, this rule does not relieve a plaintiff from including sufficient factual averments in his or her complaint. People ex rel. Kucharski v. Loop Mortgage Co. , 43 Ill. 2d 150, 152, 251 N.E.2d 211 (1969). While the plaintiff is not required to set forth evidence in his or her complaint, the plaintiff must allege facts sufficient to bring a claim within a legally recognized cause of action, not simply conclusions. Marshall , 222 Ill. 2d at 429, 305 Ill.Dec. 897, 856 N.E.2d 1048. A pleading that merely paraphrases the elements of a cause of action in conclusory terms is insufficient. Welsh v. Commonwealth Edison Co. , 306 Ill. App. 3d 148, 155, 239 Ill.Dec. 148, 713 N.E.2d 679 (1999). A complaint will be deemed sufficient if the allegations contained therein "reasonably inform the defendants by factually setting forth the elements necessary to state a cause of action." *165 *592 165 592 People ex rel. Scott v. College Hills Corp. , 91 Ill. 2d 138, 145, 61 Ill.Dec. 766, 435 N.E.2d 463 (1982). ¶

Noise Ordinance Violations alleged that defendant violated, and continue to violate, the Noise Ordinance.

According to the appeal, Plaintiffs argued that the trial court erred in dismissing these counts, because (1) their complaint reasonably informed defendants of their noise-ordinance-violation claims and (2) Illinois law does not require plaintiffs to set forth evidence in their complaint. For the following reasons, we agree with plaintiffs.

Also, according to the appeal, "An owner or tenant need not prove any specific, special or unique damages to himself [or herself] or his [or her] property or any adverse effect upon his [or her] property from the alleged violation in order to maintain a suit under the foregoing provisions." Id. complaint reasonably informed defendants of their claims for Noise-Ordinance violations. They note that, in the trial court, defendants took issue with facts allegedly missing from the complaint, including what noises are being heard, when noises are being heard, what decibel levels are being measured, and what testing method was used to measure decibel levels.

Plaintiffs assert that the trial court ignored the numerous factual allegations in the complaint that specified the type of noise and when it was heard, the decibel levels measured, and the testing method utilized.

My previous complaint stated all necessary facts and that defendant have been on notice of these facts since June 23, 2020 when Mr. Egan received a cease and desist.

According to the appeal, and according to my original complaint, my case should not have been declined originally for frivolous violations and need not be amended.

According to the appeal, their Dismissal, they urge, was not proper, because the complaint reasonably informed defendants of plaintiffs' claims under the Illinois Municipal Code, and, they add, gathering of the level of detailed information defendants seek, if relevant, is better suited for discovery.

Defendants respond that the trial court correctly dismissed plaintiffs' claims, because the complaint was comprised of factual conclusions unsupported by allegations of specific facts necessary to recover under the asserted theory. Plaintiffs were required to plead facts establishing that they have been substantially affected by violations of the Noise Ordinance. Alleging past violations or discomfort based upon noises heard (even daily) is not, defendants argue, sufficient to state a claim.

According to the appeal, section 2-615 motion accepts all well-pleaded facts as true, and a defendant may not contest the factual allegations in the complaint. *Reynolds v. Jimmy John's Enterprises, LLC*, 2013 IL App (4th) 120139, ¶ 26, 370 Ill.Dec. 628, 988 N.E.2d 984 (a summary judgment motion is the proper vehicle to address a complaint's factual allegations).

We conclude that the trial court erred in dismissing plaintiffs' Noise Ordinance claims.

The Board said that A complaint is frivolous if it requests "relief that the Board does not have the authority to grant" or "fails to state a cause of action upon which the Board can grant relief." 35 Ill. Adm. Code 101.202.

According to the appeal, there were **sufficient factual allegations and that the claims should not have been dismissed on this basis.**

According to the appeal, **a private nuisance is an invasion of another's interest in the use and enjoyment of his or her land and must be substantial, either intentional or negligent, and unreasonable. In re Chicago Flood Litigation**, 176 Ill. 2d 179, 204, 223 Ill.Dec. 532, 680 N.E.2d 265 (1997). **Whether particular conduct constitutes a nuisance is determined by the conduct's effect on a reasonable person. Id.**

According to the appeal, Unlike a trespass, a nuisance is an interference with the interest in the private use and enjoyment of the land and does not require interference with the possession. *Id.* (citing Restatement (Second) of Torts § 821D cmt. d, at 101 (1979)). Nevertheless, "the interference with the use and enjoyment of property must consist of an invasion by something perceptible to the senses, " " 'something that is offensive, physically, to the senses and by such offensiveness makes life uncomfortable.' " (Emphasis added.) *Id.* at 205, 223 Ill.Dec. 532, 680 N.E.2d 265 (quoting *Rosehill Cemetery Co. v. City of Chicago*, 352 Ill. 11, 30, 185 N.E. 170 (1933)). **Common examples of a private nuisance are smoke, fumes, dust, vibration, or noise produced by the defendant on its own land and impairing the use and enjoyment of the neighboring land. Id. at 205-06, 223 Ill.Dec. 532, 680 N.E.2d 265.**

According to the appeal, Nuisance is a tort. *Id.* at 206, 223 Ill.Dec. 532, 680 N.E.2d 265. "In an action to enjoin a private nuisance, the circuit court must balance the harm done to the plaintiffs against the benefit caused by the defendant's use of the land and the suitability of the use in that particular location." *Dobbs v. Wiggins*, 401 Ill. App. 3d 367, 376, 340 Ill.Dec. 726, 929 N.E.2d 30 (2010). Whether a complained-of activity constitutes a nuisance is generally a factual question. See, e.g., *Schweih's v. Chase Home Finance, LLC*, 2015 IL App (1st) 397 Ill.Dec. 360, 41 N.E.3d 1011. Plaintiffs maintain that they sufficiently alleged claims for a private nuisance, because their complaint contained allegations concerning the noise. **They alleged that the noise pollution is perceptible at their property, unreasonably interferes with their ability to enjoy their property, and makes life uncomfortable for them. They also alleged various injuries, including health issues, annoyance, discomfort, disruption,**

invasions of privacy, and the inability to fully use and enjoy their property. Plaintiffs further alleged that defendants have knowledge of their violations and continue to knowingly violate the Noise Ordinance.

In conclusion to the appeal, We agree with plaintiffs that they sufficiently pleaded their privatenuisance counts. Their complaint contained sufficiently specific factual allegations that **defendant's activities invaded plaintiffs' interest in the use and enjoyment of their property and that the invasion was unreasonable. They alleged that the noise pollution is unreasonably interferes with their ability to enjoy their property, and makes life uncomfortable for them, because it is unreasonably loud and exceeds the Noise Ordinance's allowable limits.**

Also according to the appeal, Plaintiffs also specified **injuries such as health issues, annoyance, discomfort, disruption, invasions of privacy, and the inability to fully use and enjoy their property, and they alleged that the market value of their property has decreased substantially.** ¶ 49 Plaintiffs' complaint included similar allegations concerning the air, odor, and light pollution from defendants' property and operations.

According to the appeal, Illinois law distinguishes between two types of damages for a private nuisance: damages caused by permanent nuisances and those caused by temporary nuisances. *Tamalunis v. City of Georgetown*, 185 Ill. App. 3d 173, 183, 134 Ill.Dec. 223, 542 N.E.2d 402 (1989).

The appeal states "A permanent nuisance is one characterized as continuing indefinitely and the structure constituting the nuisance is a lawful one, or one which the person or entity has a legal right to maintain. * * * **A temporary nuisance is one which is occasional, intermittent, or recurrent and is remediable, removable or abatable. [Citation.]**

The appeal also states, Thus, because they allege a temporary nuisance, plaintiffs may properly seek recovery only for "personal 157929 inconvenience, *172 *599 annoyance, and discomfort suffered on account of the nuisance." *Id.*

The appeal further states, The court noted that a private-nuisance plaintiff "may recover all consequential damages flowing from the injury to the use and enjoyment of his or her person or property. [Citation.]

11. State whether you are representing (a) yourself as an individual or (b) your unincorporated sole proprietorship. Also, state whether you are an attorney and, if so, whether you are licensed and registered to practice law in Illinois. (Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. Also, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, an individual who is not an attorney is allowed to represent (a) himself or herself as an individual or (b) his or her unincorporated sole proprietorship, though the individual may prefer having attorney representation.)

12. _____
(Complainant's signature)

CERTIFICATION
(optional but encouraged)

I, ANNA ANDRUSAKO, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

Anna Andrusako
(Complainant's signature)

Subscribed to and sworn before me

this 25th day

of JANUARY, 2024

Colleen Kenny
Notary Public

My commission expires: 3-13-27



DOCUMENTATION OF SERVICE

Note to the Complainant: This Documentation of Service must accompany the Formal Complaint and the Notice of Filing. Once you have completed the Documentation of Service, the Formal Complaint, and the Notice of Filing, you must file these three documents with the Board's Clerk *and* serve a copy of each document on each respondent.

This form for the Documentation of Service is designed for use by a non-attorney and must be notarized, *i.e.*, it is an "affidavit" of service. An attorney may modify the form for use as a "certificate" of service, which is not required to be notarized.

Affidavit of Service

I, the undersigned, on oath or affirmation, state that on the date shown below, I served copies of the attached Formal Complaint and Notice of Filing on the respondent at the address listed below by one of the following methods: [*check only one—A, B, C, D, or E*]

A. U.S. Mail or third-party commercial carrier with the recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. Attached is the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature and showing the date of delivery as 1/26/24 [month/date], 2024. [*Attach the signed delivery confirmation showing the date of delivery.*]

B. U.S. Mail or third-party commercial carrier with a recipient's signature recorded or to be recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. However, the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature is not available to me at this time. On _____ [month/date], 20__, by the time of __:__ AM/PM, at _____ [*address where you provided the documents to the U.S. Postal Service or the third-party commercial carrier*], copies of the attached Formal Complaint and Notice of Filing were provided to the U.S. Postal Service or the third-party commercial carrier, with the respondent's address appearing on the envelope or package containing these documents, and with proper postage or delivery charge prepaid. [*Within seven days after it becomes available to you, file with the Board's Clerk the delivery confirmation—containing the recipient's signature and showing the date of delivery—and identify the Formal Complaint to which that delivery confirmation corresponds.*]

C. Personal service and I made the personal delivery on _____ [month/date], 20__, by the time of __:__ AM/PM.

D. Personal service and another person made the personal delivery. Attached is the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made the personal delivery, showing the date of delivery as

_____ [month/date], 20___. [Attach the other person's signed affidavit or declaration showing the date of delivery.]

E. _____ Personal service and another person made or will make the personal delivery. However, the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made or will make the personal delivery is not available to me at this time. On _____ [month/date], 20__, by the time of __:__ AM/PM, at

[address where you provided the documents to the person making the personal delivery], copies of the attached Formal Complaint and Notice of Filing were provided to _____ [name of the person making the personal delivery], with the respondent's address appearing on the envelope or package containing these documents, and with proper delivery charge prepaid. [Within seven days after it becomes available to you, file with the Board's Clerk the affidavit or declaration of service—containing the signature of the person who made personal delivery and showing the date of delivery—and identify the Formal Complaint to which that affidavit or declaration corresponds.]

RESPONDENT'S ADDRESS:

Name THOMAS EGAN
Street 9311 S SPAULDING AVENUE
City, state, zip code EVERGREEN PARK, IL 60805
(list each respondent's name and address if multiple respondents)

Anna Andruszko
Complainant's signature

Street 9313 S SPAULDING AVENUE

City, state, zip code EVERGREEN PARK, IL 60805

Date 1/26/24

Subscribed to and sworn before me

this 25TH day

of JANUARY, 2024

Colleen Kenny

Notary Public

My commission expires: 3-13-27

