

Respondent.

PCB 23-133

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ANNA ANDRUSHKO)	
)	
Complainant)	
)	PCB 23 – 133
v.)	
)	
THOMAS EGAN)	
)	
Respondent)	

RESPONDENT’S MOTION FOR SUMMARY JUDGMENT

NOW COMES the Respondent, Thomas Egan, by and through his attorneys, Walsh, Fewkes & Sterba, P.C., pursuant to the Illinois Administrative Code, Title 35, Section 101.516 and the Code of Civil Procedure, 735 ILCS 5/2-1005 (West 2020) and respectfully moves for summary judgment on Complainant’s Formal Complaint (the “Complaint”), and in support thereof states as follows:

ARGUMENT

A. Standard of Review

Summary judgment must be granted if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. 735 ILCS 5/2-1005(d)(West 2020). Here, no issues remain as to any question of material fact.

1. Section 901.102 of the Pollution Control Board’s (the “Board”) noise regulations establishes limits for sound emitted to specified land. 35 Ill. Adm. Code 901.102.
2. Moreover, it is the burden of the complainant to prove, by an accurate measurement of sound emissions pursuant to the procedures outlined in Section 910.105, that there has

been a violation of noise limits. See *Gill v. CHS Inc.- Carrollton Farmers Elevator*, PCB 16-68, slip op. at 4 (January 21, 2016); 415 ILCS 5/31(e)(2020); and 35 Ill. Adm. Code 910.105.

3. Petitioner alleged that Respondent was in violation of Section 901.102(a) and (b) but cannot meet her burden to prove the alleged violation of the noise regulations. As a result, there is no genuine issue of material fact remaining.

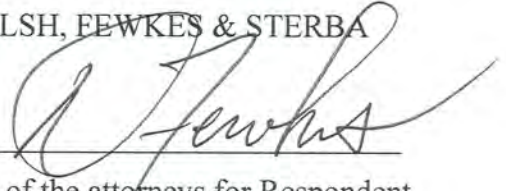
CONCLUSION

WHEREFORE, Thomas Egan respectfully requests that the Pollution Control Board

- A. Enter judgment in favor of the Respondent, and
- B. Grant the Respondent any other legal and/or equitable relief to which it is entitled.

Respectfully Submitted,

WALSH, FEWKES & STERBA

By: 
One of the attorneys for Respondent

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