

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ANNA ANDRUSHKO

Complainant,

v.

THOMAS EGAN

Respondent.

PCB 23-133

NOTICE OF FILING

TO: Illinois Pollution Control Board
Attn: Don Brown – Clerk of the Board
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601
Don.brown@illinois.gov
Brad.Halloran@illinois.gov

TO: Anna Andrushko
9313 S. Spaulding Avenue
Evergreen Park, IL 60805
pcb23.133@gmail.com

PLEASE TAKE NOTICE that on May 7, 2025, we filed with the Office of the Clerk of the Pollution Control Board the **Motion to Strike Complainant's Answers to Respondent's Request to Admit and Require Petitioner to Answer** on behalf of the Respondent, Thomas Egan, copies of which are herewith served upon you.

Respectfully Submitted,

WALSH, FEWKES & STERBA

By:

~~David A. Fewkes~~

WALSH, FEWKES & STERBA
David A. Fewkes
7270 W. College Drive, Suite 101
Palos Heights, IL 60463
Phone: (708) 448-3401
Fax: (708) 448-8022
Attorney No. 56616
Dfewkes@wfstrialaw.com

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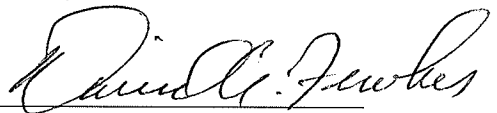
**MOTION TO STRIKE COMPLAINANT'S ANSWERS TO RESPONDENT'S REQUEST
TO ADMIT AND REQUIRE PETITIONER TO ANSWER**

NOW COMES the Respondent, Thomas Egan, by and through his attorneys, Walsh, Fewkes & Sterba, P.C. and requests:

1. Complainant fails to answer the question and Respondent moves to strike the stated response as irrelevant and immaterial and lacks proper foundation.
2. Complainant states she has not hired an expert. Respondent moves to strike the rest of the response of this question as nonresponsive, immaterial and irrelevant and lacks proper foundation.
3. Complainant fails to answer the question and Respondent moves to strike the stated response as irrelevant and immaterial and lacks proper foundation.
4. Complainant fails to answer the question and Respondent moves to strike the stated response as irrelevant and immaterial and lacks proper foundation.
5. Complainant fails to answer the question and Respondent moves to strike the stated response as irrelevant and immaterial and lacks proper foundation.

WHEREFORE, Respondent asks that the stated answer be stricken and Complainant be Compelled to answer.

Respectfully Submitted,

By: 

One of the attorneys for Respondent

WALSH FEWKES & STERBA
Attorney for Respondent
7270 W. College Drive, Ste. 101
Palos Heights, IL 60463
Attorney No. 56616
(708) 448-3401
Dfewkes@wfstriallaw.com

THE ILLINOIS POLLUTION CONTROL BOARD
PCB 23-133

May 11, 2024

Anna Andrushko, Complainant vs Thomas Egan, Respondent

COMPLAINANT ANSWERS - RESPONDENT'S REQUESTS TO ADMIT TO COMPLAINANT

1. You have not taken 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.

Answer: False

Investigation continues.

On April 11, 2024 Hearing Officer requested noise consultant, report, and witnesses which, once announced, has significantly deterred the respondent to limit the noise activity and duration.

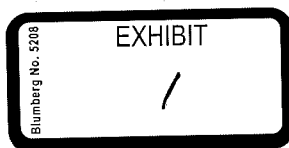
This is not a commercial noise, but a residential, or more specifically, a neighbor noise issue, acoustical violence, selectively targeting the complainant.

The manufacture's specification of a "brand new purchase" of a A-weighted Professional Instrument Sound Level Meter.

The sound level meter has "high precision with an accuracy of ± 1.5 dB." Real-time monitoring provides precise data on the sound levels in the area.

CDC has documented Everyday Sounds and Noises and established that barking in the ear is 110 decibels and hearing loss possible in less than 2 minutes. I am only substantiating what is already documented and reported by the CDC for noise levels.

EPA Identified Noise Levels Affecting Health and Welfare (EPA Press Release – April 2, 1974 and Updated September 14, 2016): Level of 45 decibels are associated with indoor residential areas, hospitals and schools, whereas 55 decibels is identified for certain outdoor areas where human activity takes place. The level of 70 decibels is identified for all areas in order to prevent hearing loss.



2. You have not hired any representative or expert 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.

Answer: Complainant objects on the grounds that it is vague, open to more than one interpretation, and argumentative.

Investigation continues. I have not hired an expert. On April 11, 2024 Hearing Officer requested noise consultant, report, and witnesses which, once announced, has significantly deterred the respondent to limit the noise activity and duration.

This is not a commercial noise, but a residential, or more specifically, a neighbor noise issue, acoustical violence, selectively targeting the complainant.

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According to Title II: AIR POLLUTION (415 ILCS 5/33) (from Ch. 111 1/2, par. 1033) Sec. 33. Board orders, standards are not required to be met, only that I prove the following:

(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.

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 (b) annoys or disturbs a reasonable person of normal sensitivities, or (c) endangers or injures personal or real property. If the facts that the respondent was engaged in any of these prohibited activities, then the respondent has committed a public nuisance.

(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 emissions, discharges or deposits resulting from such pollution source; and
- (v) any subsequent compliance.

3. Neither you, nor any of your representatives, have produced numeric testing of noise emissions at your property which conform to the procedure outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environment Protection.

Complainant objects on the grounds that it is vague, open to more than one interpretation, and argumentative.

Investigation continues. On April 11, 2024 Hearing Officer requested noise consultant, report, and witnesses which, once announced, has significantly deterred the respondent to limit the noise activity and duration.

This is not a commercial noise, but a residential, or more specifically, a neighbor noise issue, acoustical violence, selectively targeting the complainant.

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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 (b) annoys or disturbs a reasonable person of normal sensitivities, or (c) endangers or injures

personal or real property. If the facts that the respondent was engaged in any of these prohibited activities, then the respondent has committed a public nuisance.

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(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 emissions, discharges or deposits resulting from such pollution source; and
- (v) any subsequent compliance.

4. Neither you, nor any of your representatives, have produced any report of numeric testing of noise emissions at your 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, and which evidences a violation of the Pollution Control Board's noise regulations at Section 910.102(a) and (b)(35 Ill. Adm. Code 901.102(a), (b)).

Answer: Complainant objects on the grounds that it is vague, open to more than one interpretation, and argumentative.

Investigation continues. On April 11, 2024 Hearing Officer requested noise consultant, report, and witnesses which, once announced, has significantly deterred the respondent to limit the noise activity and duration.

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- (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 emissions, discharges or deposits resulting from such pollution source; and
- (v) any subsequent compliance.

5. You are not in possession of any evidence of a noise violation by the Respondent's since June 18, 2020, based on measurements required by Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

Answer: Complainant objects on the grounds that it is vague, open to more than one interpretation, and argumentative. Investigation continues.

CDC has documented Everyday Sounds and Noises and established that barking in the ear is 110 decibels and hearing loss possible in less than 2 minutes. I am only substantiating what is already documented and reported by the CDC for noise levels.

Evergreen Park Municipal Code: Sec. 12-188 Loudspeakers; sound trucks (4) ... Noise emanating from private property shall not cause distress to persons on neighboring property.

Evergreen Park Municipal Codes: Sec 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."

Evergreen Park Municipal Code: Chapter 14 Nuisances: Sec. 14-1. General provision.
In all cases in this Code where no provision is made defining what are nuisances and how the same may be removed, abated, or prevented, in addition to what may be declared such in this Code, those offenses which are known to the common law of the land and such other offenses as may be set out in other

sections of this Code and state law as nuisances may, in case the same exist within the village limits, be treated as such, and proceeded against as it is provided in this Code, or any other law.

Evergreen Park Municipal Code: Sec. 9-2. General duties of health officer.

It shall be the duty of the health officer: (a) To enforce and observe all rules, regulations and orders of the state department of public health and all state laws pertaining to the preservation of the health of the people within the village. (b) To execute and enforce all sections of this Code and all ordinances of the village relating to nuisances, public health and sanitation.

Public Nuisance: 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 (b) annoys or disturbs a reasonable person of normal sensitivities, or (c) endangers or injures personal or real property. If the facts that the respondent was engaged in any of these prohibited activities, then the respondent has committed a public nuisance.

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