

Respondent.

PCB 23-133

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ANNA ANDRUSHKO

Complainant

v.

THOMAS EGAN

Respondent

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PCB 23 – 133

**MOTION TO COMPEL COMPLAINANT TO ANSWER RESPONDENT'S
INTERROGATORIES**

NOW COMES the Respondent, Thomas Egan, by and through his attorneys, Walsh, Fewkes & Sterba, P.C. and hereby moves to compel Complainant to answer as follows:

1. Respondent previously filed written interrogatories to Complainant.
2. Questions 3 through 7 require a response.
3. Respondent moves to strike Complainant's response to Question 8 including pages 3 – 112 as being nonresponsive and irrelevant.

WHEREFORE, Respondent requests that Complainant be ordered to answer and moves to strike the nonresponsive, irrelevant materials.

Respectfully Submitted,

By: 

One of the attorneys for Respondent

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**THE ILLINOIS POLLUTION CONTROL BOARD
PCB 23-133**

August 20, 2024

Anna Andrushko, Complainant vs Thoms Egan, Respondent

COMPLAINANT'S ANSWERS TO RESPONDENT'S INTERROGATORIES

1. Identify all person who answered, assisted in answering, and prepared answer to these Interrogatories and who responded to, assisted in responding to, and prepared the responses to the Respondent's Request for Production tendered simultaneously with these Interrogatories.

Answer: Anna Andrushko

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: Arline Bronzaft, PhD.

Bronzaft is also a co-founding member of The Quiet Coalition, which has addressed the impacts of noise on health, environment, learning, productivity and quality of life in America. This public health focus has demonstrated an evidence-based approach to noise as a health and social problem.

<https://quietcoalition.org/>

Bronzaft has served as an advisor to five New York City mayors as the chairperson of the Noise Committee of [GrowNYC.org](https://gownyc.org).

Noise Awareness Publications: [Publications on the Mental and Physical Health Effects of Noise, Regulating and Mitigating Noise | GrowNYC](#)

2007, Bronzaft helped the Department of Environmental Protection of New York City to update the noise code in order to bring the decibel level down in the city. This noise code has become a model for other cities.

Bronzaft is also a co-founding member of The Quiet Coalition, which has addressed the impacts of noise on health, environment, learning, productivity and quality of life in America.



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: Complainant reserve the right to amend, modify, or supplement their answers to these Interrogatories.

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: Complainant reserves the right to amend, modify, or supplement their answers to these Interrogatories.

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.

Answer: Complainant reserve the right to amend, modify, or supplement their answers to these Interrogatories.

6. Explain with specificity the factual basis for your allegations that the Respondent is currently in violation of Pollution Control Board's noise regulation at Section 901.102(a) and (b)(35Ill. Adm. Code 910.102(a), (b)).

Answer: Complainant objects on the grounds that it is vague and argumentative.

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

See NUISANCE NOISE REPORT

8. For each person or entity identified in Interrogatory No. 8, describe the procedures used to take such measurements and 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: Complainant objects on the grounds that it is vague, open to more than one interpretation, and argumentative.

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.

This is not a commercial noise, but a residential, or more specifically, a neighbor noise issue, selective targeting the complainant when she is on her property.

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.

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.

Location: Complainant yard, mostly at the fence line along perimeter of boundary lot. Near the back door of claimant property and her patio located off the back door, where the dog spends his time barking. In addition, back of house, second story balcony.

According to the Illinois Pollution Board and the General Assembly, I only need to 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.

(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.