

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

August 20, 2024

Anna Andrushko, Complainant vs Thoms Egan, Respondent

**COMPLAINANT'S COMPLY WITH ANSWERS TO
RESPONDENT'S INTERROGATORIES**

Now comes Complainant, Anna Andrushko, self-represented, to reply to Motion to Compel Complainant to Answer Respondent's Interrogatories, as answered below questions 3 through 7.

Respondent moves to strike Complainant's response to Question 8 including pages 3-112 as being nonresponsive and irrelevant.

Complainant is unclear what the Respondent is arguing for pages 3 – 112 and needs clarification. Complainant requests the Hearing Officer to deny strike the nonresponsive, irrelevant materials.

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://grownyc.org).

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

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.~~

Answer: Thomas Egan

Personal Knowledge: Based on my sensory experiences and observations, a Noise Report was submitted to the Board and Respondent regarding specific instances, based on videos, photos, and noise measurements. Detailed dates, location, time, and noise measurement findings.

Not Speculation Testimony: is based on Complainant's direct observations, not guesses or assumptions.

Not Hearsay: Complainant will testify to what was actually and personally heard, not what someone else informed the Complainant.

Recordings: Videos, Noise Measurements, and Noise Report has been provided to the Board and Respondent. Report included date, time, location of the recording, device used to make the recording, and recordings of dog barking. Recordings have not been altered or tampered with, I will admit under oath.

- **Unreasonable Noise Defined:** Volume, Intensity, Duration, Character (intermittent, impulsive, occurs frequently or not).
- **Category of Noise Types:** (how loud the noise is and how long it lasts, how intrusive it is, how frequent it is, the area you live, whether it is a one-off or continuing problem, time of day, deliberate or not, steps taken by the owner to avoid or reduce the nuisance, activity causing the noise nuisance).
- **Types of Noise:** Continuous, Intermittent, Impulsive, or Low-Frequency.
- **Canine behavior, including barking patterns and triggers:** Dislikes being left alone, frustration, guarding instinct, attention seeking, frightened, boredom, excitement, harassment.
- **Environmental factors influencing territorial dog barking:** Critters invading space, roaming bands of feral cats, racoons, squirrels, people, anything that moves.
- **Methods for managing and modifying excessive barking behavior:** Desensitizing, Exercise, toys, feedings, water, removing the dog from the area, walking, training, medication.
The environmental factors at the respondent's property: Factors, could be exacerbating the barking; pet suited to owners' lifestyle, exercise and mental stimulation, lack of feeding, lack of shelter, lack of walking, lack of training.

- **Accepted humane methods for addressing barking behavior:** (methods) can be effective.
- **Barking function:** Territorial, alarm barking, Attention-seeking, greeting, compulsive, social, frustration, illness or injury, separation, separation anxiety.

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.~~

Answer: Only attorneys are allowed to hire a witness, therefore, I will be providing written documents and articles written and/or supported by experts and organizations to substantiate the facts.

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.~~

Answer: N/A

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.~~

Answer: N/A

The complaint filed under 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.

The complaint was not filed under Section 901.102(a) and (b)(35Ill. Adm. Code 910.109(a), (b)).

This rule essentially prohibits noise pollution, which is further defined in the Illinois Environmental Protection Act as noise that:

- Unreasonably interferes with the enjoyment of life or with any lawful business or activity.
- Violates any noise standard or regulation adopted by the IPCB.

Excessive and unreasonable barking that crosses property lines and interferes with the enjoyment of life could potentially be considered a violation of **35 Ill. Adm. Code 900.102.**

Part 901 of Title 35 sets specific **Sound Emission Standards and Limitations for Property Line-Noise-Sources**, which include numeric limits based on land use classification (Class A, B, and C) and time of day (daytime and nighttime). These limits are defined in terms of octave band sound pressure levels.

The Complainant used the Sound Emissions Standards to prove a violation from a barking dog. While Section 901.102 sets specific sound level limits, the Complaint need only to prove, 900.102, "A person must not cause or allow the emission of sound beyond the boundaries of that person's property, as defined in Section 25 of the Environmental Protection Act [415 ILCS 5/25].

a) The land use classification system for applying the numeric sound standards of this Part is based on the Land-Based Classification Standards (LBCS) (Jeer, Sanjay; 2001; LandBased Classification Standards; online at <https://www.planning.org/lbcs>; American Planning Association: Chicago, Illinois). The LBCS applicable to this Part is in Appendix B.

b) Class A land includes all land used as specified by LBCS Codes 1000 through 1340, 2410 through 2455, 5200 through 5230, 5500, 6100 through 6145, 6222, 6510 through 6530, and 6568 through 6600

Activity Code	Activity Description	01-Apr-2001
1000	Residential activities	Includes activities that occur in all types of residential uses, structures, ownership characteristics, or the character of the development.
1100	Household activities	Includes those activities normally associated with single-family, multifamily, town homes, manufactured homes, etc.

Section 901.APPENDIX B Land-Based Classification Standards and Corresponding 35 Ill. Adm. Code 901 Land Classes			
LBCS		Description	35 IAC 901 Land Class
Main Category	Function Code		
1000	Residence or accommodation functions	Private household	A
1100	Private household		

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

Answer: N/A Incorrect Noise Regulation

The complaint was filed under **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.

the Complainant, met the 25 feet measurements requirement. According to the American Planning Association (APA), Sound Emitted to Class A Land. A person must not cause or allow the emission of sound during daytime hours from any property-line noise source located on any Class A Sound pressure levels must be measured at least 25 feet from the property-line noise source.

The Complainant, met the requirements using A-weighted sound level monitor. According to Acoustical Society of America, (ASA), it is recommended that a Time-average A-weighted sound level is adopted in this standard as a basic quantity for all community sound except high-energy impulsive sound.

Ms. Andrushko, the Complainant, determined that the Category of noise "source" is Class A land to "receiving" Class A land.

Complainant purchased a brand-new "A-weighted" RTA (Real Time Analyzer) Professional Instrument Sound Level Meter instrument. The sound level meter has "high precision with an accuracy of ± 1.5 dB." (RTA) Real-time monitoring provides precise data on the sound levels in the area.

According to Acoustical Society of America, (ASA), it is recommended that a Time-average A-weighted sound level is adopted in this standard as a basic quantity for all community sound except high-energy impulsive sound.

The Complainant, submitted testing, to the best of her ability, using a new A-weighted sound level meter and presented a Nuisance Noise Report with measurements:

- Noise
- Ambient Noise

Acoustical engineers refused service to anyone not being represented by an attorney.

Land-Based Classifications

The Board's numeric noise standards are applied based on the class of receiving land and class of the land upon which the property-line noise source is located.

Property-line noise source is defined as any equipment or facility, or a combination of equipment and facility, that operates within any land used as specified by 35 Ill. Admin Code 901.101. The equipment or facility or combination of equipment and facility, must be capable of emitting sound beyond the property line of the land on which it is operated.

Section 901.101 Classification of Land According to Use

Class A land includes all land used as specified by LBCS Codes 1000 through 1340, 2410 through 2455, 5200 through 5230, 5500, 6100 through 6145, 6222, 6510 through 6530, and 6568 through 6600. c) Class B land includes all land used as specified by LBCS Codes 2100 through 2336, 2500

Section 901.102 Sound Emitted to Class A Land

Except as elsewhere provided in this Part, a person must not cause or allow the emission of sound during daytime hours from any property-line noise source located on any Class A, B or C land to any receiving Class A land that exceeds any allowable octave band sound pressure level specified in the following table, when measured at any point within the receiving Class A land. Sound pressure levels must be measured at least 25 feet from the property-line noise source.

Section 910.105 Measurement Techniques for 35 Ill. Adm. Code 901

To determine a noise source's compliance with 35 Ill. Adm. Code 901, sound pressure level measurements are obtained using the following measurement techniques:

- A) Determining the extent of noise pollution caused by the source of sound;
- B) Determining the ambient;

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

Answer: Anna Andrushko

9. 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.