

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 November 3, 2025 we filed with the Office of the Clerk of the Pollution Control Board the **Respondent's Amended Response "Second Motion To Compel Discovery and Sanctions,"** on behalf of Respondent, Thomas Egan, copies of which are herewith served upon you.

Respectfully Submitted,

WALSH, FEWKES & STERBA

By: David A. Fewkes
David A. Fewkes

WALSH, FEWKES & STERBA
Attorney for Respondent
7270 W. College Drive, Suite 101
Palos Heights, IL 60463
(708) 448-3401 (ph)
(708) 448-8022(fax)
Attorney No. 56616
Dfewkes@wfstrialaw.com

THE ILLINOIS POLLUTION CONTROL BOARD

PCB 23-133

Anna Andrushko, Complainant

v.

Thomas Egan, Respondent

RESPONDENTS RESPONSE TO

SECOND MOTION TO COMPEL DISCOVERY AND FOR SANCTIONS

Introduction

Respondent Thomas Egan, by and through undersigned counsel, respectfully opposes Complainant's "Second Motion to Compel Discovery and Sanctions." The motion repackages issues already addressed through timely responses and good-faith, well-grounded objections. It seeks intrusive third-party information and legal conclusions that are neither relevant nor proportional to the narrow question presented in this case—whether Mr. Egan caused a noise violation under the Act. The motion—and the request for sanctions—should be denied. The bolded sections are the responses to Petitioner's requests which are laid out as follows:

Interrogatory 3(g): Acquisition of the Dog (Facility/Seller/License)

Respondent's answers (May 29, 2025 and September 22, 2025) state only that the dog was purchased from "Mr. Patrick Biro, who now lives in France," and deny possession of a facility license. This evades the interrogatory seeking the facility/shelter or business name and location and any related license or documentation. The answer is not full and complete.

Complainant requests an order compelling a full response to the following clarified items:

- The full name of the breeder or broker; and, if a broker, identification of both the breeder and the broker.
- The address of the breeder and/or broker.
- The full name and physical location (address) of the facility, shelter, or business where the dog was acquired.
- All documents related to the acquisition (e.g., bill of sale, adoption records, registration papers).
- If acquired from a private (non-licensed) individual, a sworn statement so stating, with whether the dog was purchased as a puppy or older dog.

Interrogatory 3(o): Breed Characteristics, Temperament, and Adaptability

Respondent's identical answers ("The dog is a terrier. They like to go outside.") fail to address breed group, purpose, adaptability, or how those traits are managed in Respondent's home to mitigate barking. The request seeks Respondent's knowledge and application to his dog and property, not generic breed facts.

Complainant requests an order compelling specifics, including:

- Breed group and a brief explanation of its typical purpose and tendencies.
- Respondent's description of the dog's suitability for the living environment.
- The dog's daily exercise and mental-stimulation routine (type, duration, location).
- How the dog's temperament (e.g., Irish Terrier) is managed to prevent nuisance barking.

Respondents Response: Complainant seeks expanded identification and contact information for any facility, shelter, breeder, and related persons, as well as narrative descriptions of breed purpose, traits, and energy level. The requests are overbroad, seek private third-party identifying information with no bearing on whether current barking constitutes a violation at Complainant's property, and are untethered to any relevant time period. Without waiving objections, Respondent has already stated when and from whom the dog was obtained. Demanding third-party names, addresses, and speculative breed treatises is disproportionate and not reasonably calculated to lead to admissible evidence as to this dog, in this environment, on the dates at issue.

Interrogatory 5: Consultation with Veterinarian/Trainer

Respondent twice answered "No." The interrogatory also asks to "Please explain" and for documentation. A bare "No" is not a full and complete answer. Respondent should explain why no professional consultation was sought despite continuing issues, and produce any responsive documents (or state none exist).

Respondent Response: Respondent answered that no consultation occurred. There is no "documentation" to produce where the substantive answer is "no." No further order is warranted.

Interrogatory 9(a): Basic Health, Welfare, and Care Details

Respondent states generally that the dog receives food, water, shelter, yard space, and companionship. This lacks the requested specifics. Complainant requests details including: food brand/type, quantity, and feeding schedule; water source and replenishment;

description of shelter (size, materials, whether enclosed or house access); and companionship/exercise (time alone per day; frequency/duration of walks and interaction).

Interrogatory 9(b): Environmental Enrichment to Reduce Barking

Respondent's first answer (supervision and bringing the dog inside if barking at critters) is non-responsive to enrichment. No second answer was provided. Complainant seeks a full response identifying toys, chew items, puzzles, and other enrichment used to mitigate barking, with any documentation.

Interrogatory 9(c): Boundary/Vocal Training

Respondent's first answer ("The dog loves to fetch tennis balls.") and the omitted second answer are non-responsive. Complainant seeks a complete description of boundary training, vocal commands, or other behavioral interventions used to curb barking, with supporting documentation if any.

Interrogatory 9(d): Daytime Abatement Measures on Property

Respondent acknowledges the dog barks at cats and squirrels and states he provides exercise at a dog park. This does not answer what on-premises mitigation measures (e.g., doggie door, muzzles, electronic collars, landscaping/sightline controls) are used to prevent daytime barking that disturbs neighbors. A full response should be compelled.

Interrogatory 9(e): Yard Stimulation/Occupational Measures

Respondent's statement that he is usually home and does not leave the dog isolated is non-responsive. The interrogatory asks what stimulation (toys, puzzles, agility equipment, etc.) is available in the yard to limit barking. A full response should be compelled.

Interrogatory 9(g): Isolation Without Human Interaction

Respondent omitted answers. Whether the dog is isolated is directly relevant to cause, nature, and extent of barking. A complete answer should be compelled.

Interrogatory 11 (Revised): Facts Supporting Denial of Post-May 1, 2020 Noise

Respondent objected that the question was vague and called for a narrative. Complainant's revised request is specific and seeks: (a) dates/times since May 1, 2020 on which Respondent contends no barking violation occurred in the complainant's presence; and (b) the who/what/where/when facts supporting Respondent's defense that music, honking, or barking did not occur or did not violate Illinois noise regulations. These are proper contention interrogatories and should be answered fully.

Respondent Response: Complainant demands granular details (e.g., food brands, feeding schedules, water sources, crate/shelter construction, enrichment inventories, boundary-teaching methods, and whether the dog is ever isolated). Much of this bears no nexus to whether off-property barking met any regulatory threshold. To the extent mitigation is relevant, Respondent has already disclosed that he exercises and supervises the dog, brings the dog indoors when barking occurs, and

uses verbal correction. The demand for “documentation” of ordinary pet care is overreaching and not proportional.

Interrogatory 9(c) regarding “isolation” has been answered: the dog is not left isolated in a manner designed to cause barking.

Interrogatory 11(a) effectively asks for every date and time the dog did not bark in Complainant’s presence—an impossible task. Interrogatory 11(b) is vague, goes to the ultimate issue, and is more appropriately addressed in deposition.

Interrogatory 13(b)–(c): Frequency and Duration of Barking

Respondent answered only with triggers (“cats or squirrels”) and the negative assertion that the dog has never barked all day or all week. That evades the requested frequency/duration details (continuous, intermittent, habitual) and specific timeframes. A full description of frequency and duration should be compelled.

Respondent Response: Respondent has answered that the dog may bark when stimulated by squirrels, cats, or similar triggers, and that he intervenes. A demand for a forensic taxonomy of every possible pattern of barking across months or years is speculative, unduly burdensome, and exceeds the proportional needs of this case.

Interrogatory 17 (Revised): Awareness of Complaints and Mitigation Steps

Respondent objected as vague/irrelevant. Complainant clarifies and seeks: (a) Respondent’s awareness of any complaints (dates/nature) since June 26, 2023; and (b) steps taken since that date to prevent excessive barking, with dates and documentation. These are relevant to mitigation and reasonableness.

Respondent Response: Complainant seeks identification of all formal and informal complaints and all steps taken, with receipts and notes. The request is irrelevant and overly burdensome to the limited issue before the Board. Respondent has stated that he removes the dog from potential stimuli when barking occurs, installed a screen to limit sightlines into Complainant’s yard, and has restricted the dog’s backyard access—particularly as Complainant has attempted to record barking when the dog is indoors. These disclosures adequately address mitigation; further compulsion is unwarranted.

Interrogatory 26 (Revised): Basis for Denying Disturbance

Respondent objected as speculative and vague. The revised request asks Respondent to state all facts, reasons, evidence, documents, and witnesses supporting the contention that

the barking does not constitute a noise violation or unreasonable disturbance. This is central to the case and should be fully answered.

Respondent Response: Complainant seeks identification of all formal and informal complaints and all steps taken, with receipts and notes. The request is irrelevant and overly burdensome to the limited issue before the Board. Respondent has stated that he removes the dog from potential stimuli when barking occurs, installed a screen to limit sightlines into Complainant's yard, and has restricted the dog's backyard access—particularly as Complainant has attempted to record barking when the dog is indoors. These disclosures adequately address mitigation; further compulsion is unwarranted.

Interrogatory 27: Understanding of Applicable Noise/Nuisance Ordinances

Respondent's objections are unfounded. The interrogatory properly seeks Respondent's understanding of local noise/nuisance ordinances relevant to barking. Whether or not Respondent has been cited is distinct and non-responsive. A narrative description is appropriate to provide a full answer under Rule 213(c).

Respondent Response: As reframed, these interrogatories improperly seek legal opinions and attorney mental impressions. Respondent has pleaded defenses and produced facts relevant to causation and mitigation. The text of any applicable ordinances is a matter of public record equally available to Complainant.

The Request for Sanctions Lacks Merit

Sanctions are extraordinary and require a showing of willful noncompliance. The record shows timely responses, specific and good-faith objections, and a willingness to confer. The motion itself acknowledges that many substantive answers were provided (e.g., triggers and mitigation) but labels them "insufficient." A disagreement over scope is not sanctionable.

VI. Conclusion

For the foregoing reasons, Respondent respectfully requests that the Board deny Complainant's Second Motion to Compel Discovery and for Sanctions, and grant such other relief as the Board deems just and proper.

Respectfully submitted,

By:



One of the Attorneys for Respondent

WALSH FEWKES & STERBA
Attorneys for Respondent
7270 W. College Drive, Ste. 101
Palos Heights, IL 60463
(708) 448-3401 (ph) | (708) 448-8022 (fax)
Attorney No. 56616
dfewkes@wfstriallaw.com