

THE ILLINOIS POLLUTION CONTROL BOARD
PCB 23-133

Anna Andrushko, Complainant vs Thomas Egan, Respondent

COMPLAINANT'S REPLY IN FURTHER SUPPORT
OF SECOND MOTION TO COMPEL DISCOVERY AND FOR SANCTIONS

Now Comes, Complainant, Ms. Anna Andrushko, reply to Respondent's Response to Second Motion to Compel Discovery and For Sanctions.

The Respondent fails to address the core issue of their repeated, unexcused failure to produce critical responses and documents and instead relies on boilerplate objections.

On **June 04, 2024**, Complainant's Original Interrogatories to Respondent were served. On **August 08, 2024**, the first set of deficient responses was received by Respondent, Thomas E. Egan.

On **November 18, 2024**, Complainant's Motion to Compel was served. On **December 30, 2024**, Motion to Compel was received from Respondent.

The IPCB Hearing Officer on **August 28, 2025**, ordered the Respondent to answer questions Under the **Illinois Supreme Court Rule 213(c)**, which governs the nature of a response to an interrogatory. The rule mandates that answers shall be "full and complete" and shall be answered "separately and fully in writing under oath."

On **October 20, 2025**, Complainant's Second Motion to Compel Discover and Sanctions was served. On **November 03, 2025**, Respondent submitted Respondent's Response to Second Motion to Compel Discovery and for Sanctions.

735 ILCS 5/2-603 requires all pleadings to contain a plain and concise statement of the pleader's case a requirement for defense. The statements should be a clear reply, separately designated. The answers by the Respondent were not clear for each question. The Complainant had to make assumptions if the answers were omitted completely or the blanket response for Interrogatory 9 (a) – (g) and Interrogatory 11 were the same Respondent's Response applied for all 9 (a) – (g).

The Board's power to impose sanctions for a party's failure to cooperate in discovery is not only inherent in its quasi-judicial function but is explicitly provided for in the Board's procedural rules. Title 35, Subtitle A, Section 101.800 of the Illinois Administrative Code, entitled "Sanctions for Failure to Comply with Procedural Rules, Board Orders, or Hearing Officer Orders," states in relevant part:

(a) If any person unreasonably fails to comply with any provision of 35 Ill. Adm. Code 101 through 130 or any order entered by the Board or the hearing officer... the Board may order sanctions.
(b) Sanctions include the following: (3) The offending person may be barred from maintaining any claim, counterclaim, third-party complaint, or defense relating to that issue; (4) As to claims or defenses asserted in any pleading or other document to which that issue is material, a judgment by default may be

entered against the offending person or the proceeding may be dismissed with or without prejudice; (5) Any portion of the offending person's pleadings or other documents relating to that issue may be stricken and, if appropriate, judgment may be entered as to that issue; and (6) The witness may be barred from testifying concerning that issue.

This provision clearly and unambiguously grants the Board the power to impose the types of non-monetary, case-dispositive sanctions requested by the Complainant (e.g., barring a defense, striking a pleading, or deeming facts admitted).

3. (g) Where did you acquire the dog? What facility, shelter, or owner?

Please state facility, shelter and location. Provide a License of the facility or Business License.

Respondent's First Answer: May 29, 2025, Thomas E. Egan is the original owner of the dog. The dog was purchased from Mr. Patrick Biro, who now lives in France.

Respondent's Second Answer: September 22, 2025, Thomas E. Egan is the original owner of the dog. The dog was purchased from Mr. Patrick Biro, who now lives in France. Respondent does not have a license of the facility.

Complainant's Argument: Same response. Order by IPCB on August 28, 2025. This is a clear failure to answer. Evades question. The complainant expects a full and complete answer.

Respondent first stated (3. e) the dog was 'Purchased from breeder' on **August 8, 2024**. Neither answer provides the full information requested: the **name and location** of the breeding **facility/shelter** or the required **license/business license**.

The current answer, which points to an individual in France, is not responsive to the request for a **facility, shelter, location, and license**. If the dog was acquired directly from a licensed facility or a registered breeder in Illinois, that information should be readily available. If Mr. Egan claims it was a private party sale, Mr. Egan must state that specifically under oath, and then state whether the dog was purchased as a puppy or an older dog, as this may be relevant to the duration of the noise issue.

Complainant's Argument: I will clarify the original question above.

3. (g) (Revised) Ms. Andrushko rephrases and clarifies the question and asks the Board to compel the following, stating that the current answers are insufficient:

- The **"full name" of the individual** OR entity who bred the dog, or the broker (if the seller was a broker between the seller and buyer).
- The **"address"** of the individual or entity who bred the dog, or the broker.
- The **full name and physical location (address)** of the facility, shelter, or business where the dog was acquired, regardless of who handled the transaction.
- Any and all documents related to the sale/acquisition of the dog, including, but not limited to, a bill of sale, adoption records, or registration papers (which would typically contain the breeder/facility's information).

- If the dog was acquired from a non-licensed individual (a private sale), the respondent must state this explicitly under oath.

Respondent's Response November 03, 2025: No Response.

Order by IPCB on August 28, 2025. This is a clear failure to answer. Evades question. The complainant expects a full and complete answer.

3. (o) Characteristics of the dog influenced by breeding for specific purposes and behavioral tendencies and temperaments:

What is the breed group? Sporting, Hound, Terrier, Working, Toy, Non-Sporting, Herding? Please explain.

What is the adaptability? Suited for what environment or lifestyle? Apartment living or active outdoor adventures? Please explain.

Respondent's First Answer: May 29, 2025, The dog is a terrier. They like to go outside.

Respondent's Second Answer: September 22, 2025, the dog is a terrier. They like to go outside. Any information as to the adaptability of the dog's breeding group is just as available to Petitioner as it is to Respondent.

Complainant's Second Argument: Same response. Order by IPCB on August 28, 2025. This is a clear failure to answer. Response is Insufficient. Deliberate evasions of the question. The complainant expects a full and complete answer.

The requested information on temperament and adaptability is not just generic breed information; it establishes the owner's responsibility to manage a high-energy, vocal breed. The owner's failure to provide details on how they are meeting these specific breed needs (beyond "they like to go outside") is evidence that Mr. Egan is not adequately addressing the root cause of the noise.

The response, "The dog is a terrier. They like to go outside," fails to explain the **Terrier breed group's purpose** as requested and does not explain the suitability for their current environment based on the dog's energy level. The claim that the information is "just as available to Petitioner" is an improper objection that ignores the fact that **Ms. Andrushko is asking for the owner's knowledge, interpretation, and application of that information** to their specific dog and living situation.

The Respondent to answer with specifics about the dog's daily routine, e.g., "What is the dog's typical daily exercise and mental stimulation routine (duration, activity type, location)?" and "Explain how the 'Irish Terrier' temperament is managed in your specific living environment to prevent nuisance behaviors."

The respondent's statement that the dog "likes to go outside" is insufficient to demonstrate that the dog's high exercise and mental needs are being adequately met to prevent the manifestation of breed-specific nuisance behaviors, such as barking due to boredom or lack of stimulation.

Respondent's Response November 03, 2025: 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.

Complainant's Argument: Order by IPCB on August 28, 2025. Evades question. The complainant expects a full and complete answer.

The Respondent's boilerplate objections of overbreadth and disproportionate burden are an attempt to frustrate discovery. As the requested information is clearly relevant to establishing the foreseeable nature of the nuisance and is not unduly burdensome, the Board should overrule the objections and compel the Respondent to produce the requested information in full. Furthermore, the Board should award sanctions.

The requests are not overbroad; they are narrowly tailored to establish the character, temperament, and foreseeable behavior of the animal at the heart of this nuisance complaint. The dog's breed purpose and energy level directly relate to the causation and necessary mitigation of the excessive barking that occurred on the dates at issue. This information is highly relevant to whether the Respondent exercised reasonable care.

The names and contact information of the breeder/facility are necessary because they are the best source of information regarding the dog's breed traits, bloodline and family history, and early behavior—information the Respondent is now refusing to provide.

Producing a name, address, and a brief narrative description of a breed's known traits is a minimal burden (low cost, little time) compared to the burden of the ongoing nuisance on the Complainant.

The person who sold or provided the dog (breeder) does have a bearing on the case because they can confirm the dog's known disposition (which goes to the Respondent's knowledge) and the accuracy of the breed information the Respondent supplied.

Complainant is seeking to obtain critical, non-privileged facts from the best possible source. Withholding the name(s) entirely places a protective shield over highly relevant evidence.

The potential benefit (discovering key facts about the dog's nature to prove the claim and craft an effective resolution) outweighs the minimal burden of producing contact information and basic breed data.

Breed characteristics are not speculative; they are established facts for registered breeds. The request for a narrative description of breed purpose/traits is simply asking the Respondent to confirm basic information easily obtainable from a quick search or the breeder themselves.

The burden of producing a few names and addresses, or a simple description of a known breed's characteristics, is **in no way disproportionate** to the central issues in this matter. The information is reasonably calculated to lead to admissible evidence regarding the dog's likely behavior and the Respondent's responsibility in choosing and managing an animal with those traits in a confined environment.

5. **Have you consulted your vet or trainer about continued behavior of your dog barking when you continue to face issues? Please provide documentation. Please explain.**

Respondent's First Answer: May 29, 2025, No.

Respondent's Second Answer: September 22, 2025, No.

Complainant's Argument: Same response. Order by IPCB on August 28, 2025. This is a clear failure to answer. In legal discovery, this is generally unacceptable without a specific, stated objection. Insufficient explanation. The complainant expects a full and complete answer.

The third part of the question is, "Please explain," is answered by the simple "No," as there is no consultation to explain. By answering "No," Mr. Egan is compelled to explain why he has NOT sought professional help for a problem allegedly continue to face issues.

The interrogatory is relevant to the Respondent's mitigation efforts and the overall reasonableness of the noise violation. The simple 'No' answer is a refusal to address the 'Please explain' component. The explanation of *why* no consultation has occurred for a persistent nuisance is critical to determining if the Respondent has taken all reasonable steps to abate the nuisance, which is a key factor in a noise violation case.

Respondent's Response November 03, 2025: Respondent answered that no consultation occurred. There is no "documentation" to produce where the substantive answer is "no." No further order is warranted.

Complainant's Argument: Order by IPCB on August 28, 2025. Evades question. The complainant expects a full and complete answer.

Respondent's answer of 'No' is facially insufficient. The interrogatory is compound, explicitly requiring an explanation. By refusing to provide the circumstances surrounding the decision not to seek consultation—which is a critical fact in this case—Respondent has failed to answer a core element of the question.

The required explanation is not an answer that could simply be "No." It is a separate discovery inquiry into the state of mind, knowledge, or deliberate choice of the Respondent. You are entitled to know:

- **The decision-making process:** Why did Respondent choose not to seek professional consultation, despite the "continuing issues" referenced in the interrogatory?
- **The basis of the choice:** What facts or information did Respondent rely on to conclude that a professional consultation was not warranted?

The Respondent attempts to use the lack of documents as a blanket excuse for the lack of a narrative explanation. This is legally incorrect.

- Distinguish Facts from Documents: Discovery requires the disclosure of facts (through the explanation) *and* documents. The absence of one does not eliminate the duty to provide the other.

Even if zero physical documents exist, Respondent still has the mandatory duty to explain the facts that led to the 'No' answer, as required by the interrogatory itself.

9. (a). Do you provide basic health and welfare to eliminate disturbing the neighbors from barking? Please list, such as adequate food, water, shelter, yard space, companionship for the dog?

Respondent's First Answer: May 29, 2025, Yes, the dog is provided with basic health and welfare along with adequate food, water, shelter, yard space, and companionship. Yes, the dog is kept in a fenced-in yard.

Respondent's Second Answer: September 22, 2025, Yes, the dog is provided with basic health and welfare along with adequate food, water, shelter, yard space, and companionship. Yes, the dog is kept in a fenced-in yard.

Complainant's Argument: Same response. Order by IPCB on August 28, 2025. This is a clear failure to answer. In legal discovery, this is generally unacceptable without a specific, stated objection. Response is vague. Deficiency in question. The complainant expects full and complete answer.

9 (a) Ms. Andrushko rephrases and clarifies the question and asks the Board to compel the following, stating that the current answers are insufficient:

Provide Specific facts (**provide list**) regarding the care Mr. Egan claims to provide.

- **Food:** Specify the type of food, amount, and feeding schedule. (e.g., "What specific food brand is the dog fed, how much, and at what times of day?")
- **Water:** Specify the source and frequency of replenishment. (e.g., "Where is the dog's water source located, and how often is it checked/refilled?")
- **Shelter:** Describe the shelter's location and structure. (e.g., "Describe the dog's shelter, including its size, material, and whether it is an enclosed structure or access to the house.")
- **Companionship/Exercise:** Detail the frequency and duration of interaction/walks. (e.g., "How many hours per day is the dog left alone, and how many times per day is the dog walked or given dedicated human interaction outside of feeding?")

Respondent's Response November 03, 2025: Respondent states generally that the dog receives food, water, shelter, yard space, and companionship. This lacks the requested specifics.

Electronic Filing: Received, Clerk's Office 11/10/2025

Complainant requests details including: food brand/type, quantity, and feeding schedule; water source and replenishment; Electronic Filing: Received, Clerk's Office 11/3/2025 description of shelter (size, materials, whether enclosed or house access); and companionship/exercise (time alone per day; frequency/duration of walks and interaction).

Complainant's Argument: Order by IPCB on August 28, 2025. Evades question. The complainant expects a full and complete answer.

The Respondent's refusal to provide specific facts, forcing you to file this motion, demonstrates a lack of good faith in the discovery process.

Food quality, shelter size, and exercise frequency are the factual basis for evaluating the Respondent's compliance with their duty of care. A general answer precludes meaningful investigation.

Without knowing the quality and quantity of food, Complainant cannot determine if the dog's nutritional needs are being adequately met. Without the frequency and duration of walks, Complainant cannot evaluate the claim of sufficient companionship and exercise. Generalities do not resolve the facts at issue.

Offering insufficient, boilerplate response, the Respondent has unnecessarily multiplied the cost and time of litigation. Sanctions, are therefore warranted to deter this type of discovery gamesmanship.

9 (b). To avoid your dog from excessive barking, how do you keep things interesting for your dog? Do you provide plenty of chew toys for your dog to play with? Raw bones, toys, chew ropes, etc.? Provide documentation.

Respondent's First Answer: May 29, 2025, I do not leave the dog outside alone and I bring him in when he barks at critters.

Respondent's Second Answer: September 22, 2025: Respondent omitted a response.

Complainant's Argument: Order by IPCB on August 28, 2025. This is a clear failure to answer. In legal discovery, this is generally unacceptable without a specific, stated objection. Response evades question. The complainant expects full and complete answer.

Respondent's first Answer on May 29, 2025, "I do not leave the dog outside alone and I bring him in when he barks at critters." This is also non-responsive to the question about enriching the dog's environment with toys, bones, ropes, and other items. While it speaks to *supervision*, it completely ignores the part of the question related to *enrichment*, which is a recognized method for **reducing boredom and, consequently, barking**.

The question is relevant because it seeks to discover if Mr. Egan is taking **reasonable, established steps to mitigate the noise** "*at the source or root cause*" (boredom/lack of enrichment), which directly relates to the underlying nuisance.

Complainant, Ms. Andrushko seeks this information to determine the extent to which the Respondent, Mr. Egan, is employing **standard, non-bark-reducing management techniques**, such as environmental enrichment, to mitigate the noise nuisance."

Electronic Filing: Received, Clerk's Office 11/10/2025

The presence or absence of these items is relevant to whether the Respondent is taking **all reasonable steps** to control the barking noise at the source.

Respondent's Response November 03, 2025: 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 Electronic Filing: Received, Clerk's Office 11/3/2025 uses verbal correction. The demand for "documentation" of ordinary pet care is overreaching and not proportional.

Complainant's Argument: Order by IPCB on August 28, 2025. Evades question. The complainant expects a full and complete answer.

Respondent's blanket refusal to produce even basic, relevant information is a transparent effort to obstruct discovery and hide information relevant to their liability, warranting sanctions.

The Respondent is intentionally withholding facts relevant to their own defense, forcing the Complainant to file a motion, which constitutes a lack of substantial justification for the Complainant.

The requested information on enrichment and daily routine is proportional to the needs of the case and necessary to test the veracity and effectiveness of the Respondent's defense. The Respondent's objection is an evasive response.

Enrichment, in the context of animal behavior, specifically refers to proactive strategies to stimulate the dog's mind and body (toys, puzzles, chews, etc.), which directly addresses the cause of the nuisance barking. Supervision and containment are reactive measures that do not substitute for the requested information on behavioral mitigation.

The specific details requested (toys, chew items, puzzles) are highly relevant and necessary to evaluate the Respondent's claims of mitigating the nuisance barking.

Despite the Complainant clearly identifying the non-responsive nature of the first answer and seeking a full, proper response, the Respondent has failed to provide any second or supplemental answer.

This failure demonstrates a lack of good faith in the discovery process and necessitates the Court's intervention. Discovery rules require a party to provide a complete answer or state an objection; the Respondent did neither.

9 (c). Do you teach boundaries? Please explain. Provide documentation.

Respondent's First Answer: May 25, 2025, The dog loves to fetch tennis balls.

Respondent's Second Answer: September 22, 2025, Respondent omitted a response.

Complainant's Argument: Order by IPCB on August 28, 2025. This is a clear failure to answer. In legal discovery, this is generally unacceptable without a specific, stated objection. The respondent's answers are **evasive and non-responsive** and constitute a willful failure to participate in the discovery process.

This question seeks information about the steps Mr. Egan has taken to mitigate the noise pollution caused by his dog, the Irish terrier. Boundary training, vocal training, or other behavioral interventions are direct forms of control over the dog's behavior, which is the source of the alleged violation.

The answer is relevant because it concerns the Respondent's control over the noise source and his attempts (or lack thereof) to prevent the alleged violations. This goes to the heart of whether Mr. Egan is making a good-faith effort to comply with the noise regulations.

Respondent's Response November 03, 2025: 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 Electronic Filing: Received, Clerk's Office 11/3/2025 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.

Complainant's Argument: Order by IPCB on August 28, 2025. Evades question. The complainant expects a full and complete answer.

Respondent's blanket refusal to produce even basic, relevant information is a transparent effort to obstruct discovery and hide information relevant to their liability, warranting sanctions.

Respondent's objections lack merit and that the Court should grant the Complainant's Motion to Compel and order the Respondent to produce the requested documents

The Respondent answered the wrong question that is about boundaries not isolation.

The question asks if the Respondent teaches boundaries, a term often used in animal behavior to describe training methods aimed at controlling a dog's spatial behavior, especially regarding property lines and excessive vocalization. This information is highly relevant because:

- It goes directly to the Respondent's claim of mitigation. If the Respondent claims to be exercising and supervising the dog, their boundary-teaching methods—or lack thereof—are essential to determine if their claimed mitigation efforts are reasonable, effective, or merely superficial.
- It is necessary to determine the root cause of the nuisance barking, which is directly at issue in this complaint. A lack of proper boundary training and supervision is often the direct cause of prolonged, off-property barking.
- It is not simply asking about 'ordinary pet care' but about training methods specifically designed to address the behavior that is the subject of this litigation.

9 (d). Dogs are territorial and don't take kindly to other critters invading their space, such as roaming bands of feral cats, racoons, squirrels, etc. How do you resolve your dog from barking and annoying the neighbors? What steps (doggie door, muzzles, electronic collars, landscape) have you taken to eliminate excessive barking behavior during the day that will disturb the neighbors?

Respondent's First Answer: May 25, 2025: The dog is barking because of cats and squirrels. I provide exercise by taking him to the dog park.

Respondent's Second Answer: September 22, 2025, Respondent omitted a response.

Complainant's Argument: Order by IPCB on August 28, 2025. This is a clear failure to answer. In legal discovery, this is generally unacceptable without a specific, stated objection. Response evades question. Non-compliance. The complainant expects a full and complete answer.

This is the second time seeking an order compelling an answer to this same, relevant question. This establishes a pattern of willful non-compliance with the discovery process and the Hearing Officer's prior ruling.

This question seeks information about the Respondent's mitigation efforts, which is highly relevant to the ultimate issue of whether Mr. Egan and his dog are causing a noise violation and/or if Mr. Egan has taken reasonable steps to abate the problem.

Respondent's First Answer, May 25, 2025, "**The dog is barking because of cats and squirrels.**" Mr. Egan acknowledges a cause.

Mr. Egan states: "**I provide exercise by taking him to the dog park.**" While exercise can be a mitigation technique, it doesn't address the specific, daytime, at-home measures Ms. Andrushko asked about, and more importantly, it doesn't answer the question about the enumerated steps: doggie door, muzzles, electronic collars, landscape, etc., *taken to eliminate excessive barking behavior during the day that will disturb the neighbors*).

"Respondent's answer that 'The dog is barking because of cats and squirrels. I provide exercise by taking him to the dog park' is incomplete and non-responsive. While it addresses *why* the dog may bark (the trigger), it **fails entirely to address the core inquiry** of this highly relevant interrogatory: **What specific steps have been taken to resolve the barking and eliminate the excessive behavior**, as exemplified by the list of measures such as muzzles, collars, or landscape changes. The Respondent has failed to disclose any active, specific, and permanent abatement efforts beyond taking the dog off-premises, which does not address the alleged noise violation occurring at home.

Respondent's Response November 03, 2025: Respondent acknowledges the dog barks at cats and squirrels and states he provides exercise at a dog park.

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 Electronic Filing: Received, Clerk's Office 11/3/2025 uses verbal correction. **The demand for "documentation" of ordinary pet care is overreaching and not proportional.**

Complainant's Argument: Order by IPCB on August 28, 2025. Evades question. The complainant expects a full and complete answer.

Respondent's blanket refusal to produce even basic, relevant information is a transparent effort to obstruct discovery and hide information relevant to their liability, warranting sanctions.

The Respondent's refusal to provide relevant information after having been served with a legitimate discovery request warrants the imposition of sanctions, or at a minimum, a strong warning, to prevent further obstruction of the judicial process.

The Complainant's motion to compel the requested discovery should be granted because the requested information is directly relevant and proportional to the central issue of the case: the excessive and unreasonable nature of the dog's barking and the efficacy and truthfulness of the Respondent's alleged mitigation efforts.

In a nuisance case, the Complainant must prove the barking is excessive and unreasonable. The Respondent's efforts to control the dog are a central defense point. If the Complainant cannot discover the facts behind the defense, they are severely prejudiced in their ability to prepare for trial.

The Respondent has exclusive access to the details of the dog's daily care and training. The Complainant cannot obtain this information through any other means. This fact alone weighs heavily in favor of compelling the information.

The inquiry moves beyond "**ordinary pet care**" the moment the pet's behavior becomes a legal nuisance. The requested documentation speaks directly to the specific behavioral issues that cause the alleged nuisance.

Many requested items (e.g., food brands, feeding schedules, crate construction) are readily available to the Respondent and do not require extensive or expensive creation, particularly in an effort to prove that the Respondent is already taking sufficient steps.

9 (e). What stimulation do you have available in your yard to keep your dog occupied outside to avoid or limit barking?

Respondent's Second Answer: May 25, 2025: I do not leave the dog alone outside or isolated and I am usually home with the dog on a daily basis.

Respondent's Second Answer: September 22, 2025, Respondent omitted a response.

Complainant's Argument: Order by IPCB on August 28, 2025. This is a clear failure to answer. In legal discovery, this is generally unacceptable without a specific, stated objection. Response evades question. The complainant expects a full and complete answer. Respondent's answer is non-responsive to the interrogatory.

This is the second time seeking an order compelling an answer to this same, relevant question. This establishes a pattern of willful non-compliance with the discovery process and the Hearing Officer's prior ruling.

The question seeks information regarding the **physical items, toys, objects, activities, or training methods** used in the yard to occupy the dog (i.e., 'What stimulation do you have available...')."

The provided answer by Mr. Egan only addresses the presence of the Respondent in the yard ('**I am usually home...**') and fails entirely to identify any 'stimulation' or 'means of occupying' the dog, which is the direct subject of the question."

Whether the Respondent is present or not, a dog can still be engaged by toys, treat puzzles, bones, agility equipment, or other objects designed to minimize boredom and subsequent nuisance barking. The question is designed to discover what measures are *available* and *used* by the Respondent to mitigate the noise violation. The answer provides no such information.

Respondent's Response November 03, 2025: 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.

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 Electronic Filing: Received, Clerk's Office 11/3/2025 uses verbal correction. The demand for "documentation" of ordinary pet care is overreaching and not proportional.

Complainant's Argument: Order by IPCB on August 28, 2025. Evades question. The Complainant expects a full and complete answer.

Respondent's blanket refusal to produce even basic, relevant information is a transparent effort to obstruct discovery and hide information relevant to their liability, warranting sanctions.

The purpose of this question is to assess the proactive measures the Respondent takes to mitigate barking before it starts, specifically when the dog is outside. The availability of appropriate outdoor stimulation is directly relevant to a negligence or nuisance claim related to barking.

The question is about physical stimulation/enrichment items available in the yard (e.g., "toys, puzzles, agility equipment, etc.") that help limit the dog's barking while outside.

The Respondent's response that he "is usually home and does not leave the dog isolated" is completely non-responsive to the question of yard equipment/stimulation. The Respondent's presence is not the physical "stimulation" or "equipment" requested.

These details are relevant to showing whether the dog is properly cared for, enriched, and stimulated, which are known factors in reducing stress and nuisance barking. A lack of proper enrichment can be a contributing cause of excessive barking.

How the dog is trained is central to assessing whether the Respondent is taking reasonable and effective steps to manage the dog's behavior, which is a key component of a nuisance claim.

9 (f). Complainant's Argument: Question Withdrawn

9 (g). Do you isolate your dog in our backyard with no human interaction? This practice can lead to dog barking. Please explain.

Respondent's First Answer: May 25, 2025, Respondent Omitted a response.

Respondent's Second Answer: September 22, 2025, Respondent Omitted a response.

Complainant's Argument: Order by IPCB on August 28, 2025. This is a clear failure to answer. In legal discovery, this is generally unacceptable without a specific, stated objection. Response is non responsive. The Respondent did not answer at all. The complainant expects a full and complete answer.

This is the second time seeking an order compelling an answer to this same, relevant question. This establishes a pattern of willful non-compliance with the discovery process and the Hearing Officer's prior ruling.

State that the question seeks facts regarding the cause, nature, and extent of the alleged noise violation. Explain that whether the dog is left alone and isolated is a highly relevant fact to determine the reason for the excessive barking and Mr. Egan's control over the noise-producing activity.

Respondent's Response November 03, 2025: 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 Electronic Filing: Received, Clerk's Office 11/3/2025 uses verbal correction. The demand for "documentation" of **ordinary pet care** is overreaching and not proportional.

Complainant's Argument: Order by IPCB on August 28, 2025. Evades question. The complainant expects a full and complete answer.

Respondent's blanket refusal to produce even basic, relevant information is a transparent effort to obstruct discovery and hide information relevant to their liability, warranting sanctions.

The Interrogatory is directly relevant and highly material. The Respondent's central claim is that the question **"bears no nexus to whether off-property barking met any regulatory threshold."** This

assertion is flawed. The core issue is the excessive dog barking. The question seeks information directly related to a primary, well-known cause of excessive dog barking: isolation and lack of stimulation.

The answer is not a demand for an exhaustive inventory of **pet care**, but a simple "Yes/No" and a brief explanation of a specific practice.

The Respondent's current mitigation efforts (supervision, bringing the dog inside when barking occurs, verbal correction) are reactive. The Complainant is entitled to discover facts about proactive causes of the behavior, which is reasonably calculated to lead to the discovery of admissible evidence regarding the Respondent's liability or control over the nuisance.

The question can be answered with a few sentences. It does not require the Respondent to produce documentation or compile complex data. An evasive response for the third time, in contrast, is an abuse of the discovery process and is unduly burdensome on the Complainant, necessitating this motion.

The refusal to answer this straightforward question for the third time demonstrates a willful attempt to obstruct discovery. The Respondent voluntary disclosure of *other* mitigation efforts does not negate their obligation to answer a relevant question that explores the underlying cause of the problem.

The Respondent's objection is a baseless attempt to shield discoverable information by deliberately mischaracterizing a simple question as an intrusive demand for irrelevant pet care details.

The question is relevant and proportional to the needs of the case. The Respondent's objection is not substantially justified. The Respondent has provided an evasive and incomplete response and a failure to answer. Therefore, Complainant requests that the Board Grant the Motion to Compel a full, complete, and verified answer to Interrogatory.

- 11. Give a detailed statement of the facts as to how you argue that the noise pollution (music, honking of car horns aimed at the complainant when passing by her, dog barking at complainant) took place after May 01, 2020, Cease and Desist letter Mr. Egan received to include any facts and documents upon which you intend to rely upon in support of any defense.**

Respondent's Answer: September 22, 2025, I have never once driven past the complainant and blown my horn. Objection as to the form of the question as it is unclear, vague, grammatically nonsensical and calls for a narrative answer more appropriately addressed in a deposition.

Complainant's Argument: I will clarify the original question above.

- 11. (Revised) Ms. Andrushko rephrases and clarifies the question and asks the Board to compel the following, stating that the current answers are insufficient:**

- 11. (a). State every date and time, since May 1, 2020 (Date Mr. Egan received Cease and Desist letter warning of noise violations and the new dog barking violation not addressed in the Cease-and-Desist Letter), on which you contend your dog did NOT bark in violation of 35 Ill. Adm. Code 901 (or any other applicable noise regulation) in response to or in the presence of the Complainant.**

Respondent's Response November 03, 2025: 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.

Complainant's Argument: Order by IPCB on August 28, 2025. Evades question. The Complainant expects a full and complete answer.

The Respondent's blanket objection shows a lack of good faith in discovery.

The burden is not to list every minute of every day. The burden is to identify the limited set of facts (dates/times) the Respondent will offer to show the dog's behavior was not a violation when the Complainant were present. This is a legitimate request to pin down the facts supporting their defense and their knowledge of their dog's compliance.

Given the Respondent's evasive and incomplete responses, and their reliance on legally questionable objections ("vague, grammatically nonsensical," "calls for a narrative," "impossible task"), the Complainant argues that sanctions are appropriate for the following reasons:

- **Willful Evasion:** The Respondent's pattern of answering only the easiest part of the original question and then mischaracterizing the revised question demonstrates a willful refusal to participate in the discovery process in good faith.
- **Wasting Resources:** These insufficient objections and answers have necessitated the motion, wasting the time and resources of the Complainant and the Board.
- **Requested Relief:** Complainant requests the Board:
 - o Overrule the Respondent's objections.
 - o Compel the Respondent to provide a full and detailed statement of facts as to all three elements (music, honking, dog barking) in the original question.
 - o Order sanctions.

11. (b). Identify and state the substance (who, what, where, when) of all facts that support your defense that the noise described in the Complaint (including music, honking, or dog barking) did not occur after May 1, 2020, or that any such noise did not constitute a violation of Illinois noise regulations.

Respondent's Response November 03, 2025: Response is omitted.

Complainant's Argument: Order by IPCB on August 28, 2025. This is a clear failure to answer. Evades question. The complainant expects a full and complete answer.

The Respondent's Response to Second Motion to Compel Discovery and for Sanctions provides very unclear answers to each question and is very difficult to follow and understand answers to what questions, I am assuming the response is omitted.

13. Please describe in detail the circumstances under which your dog barks. Include, but are not limited to:

(b.) Frequency of dog barking?

Respondent's First Answer: May 29, 2025: When stimulated by cats or squirrels.

Complainant Rephrased and Clarified Question: July 03, 2025, Does the dog bark, continuous; extended without breaks over a given period, repetitive/habitual; occurring regularly and frequently, impulsive to be extreme short bursts, excessive; more than occasional

Respondent's Second Answer: September 22, 2025, Same response as May 29, 2025. When stimulated by cats or squirrels.

Complainant's Argument: Order by IPCB on August 28, 2025. This is a clear failure to answer. In legal discovery, this is generally unacceptable without a specific, stated objection. Evades question. The complainant expects a full and complete answer.

The defendant provided an **incomplete and non-responsive** answer by addressing only the *trigger* for the barking ("cats or squirrels") and deliberately ignoring the requested *characteristics* and *frequency* of the noise.

The terms Ms. Andrushko used in her question (**continuous, repetitive/habitual, excessive**) are directly related to the legal standard of **unreasonableness** and **interference with the enjoyment of life or property**.

The defendant's response is a **calculated and willful evasion** of the discovery request that is central to the issue of **unreasonable noise interference**.

Respondent's Response November 03, 2025: 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.

Complainant's Argument: Order by IPCB on August 28, 2025. Evades question. The Complainant expects a full and complete answer.

The Complainant provided a good faith clarification to assist the Respondent in understanding the specific information sought for "frequency," offering common descriptors: continuous, extended, repetitive/habitual, impulsive (extreme short bursts), and excessive.

- The Respondent's Second Answer, delivered after the Board issued an Order (August 28, 2025) which presumably required a proper response, was simply a word-for-word repetition of the initial inadequate answer.
- This demonstrates a willful refusal to provide the necessary discovery and is a clear act of evasion, undermining the purpose of the discovery process. It is not an objection; it is a refusal to answer.

The information requested is central to the claims and defenses in this matter. Without knowing the frequency of the barking, the Complainant cannot adequately prepare their case, depose relevant witnesses, or determine the extent of the alleged nuisance.

The Respondent has offered no stated objection to the interrogatory (such as "vague" or "overly broad") at any point. They have simply repeated an answer that only addresses *one aspect* (the cause) and completely ignores the second, essential aspect (the frequency) of the question.

The Respondent is effectively attempting to dictate the scope of discovery by selectively answering only the parts of the question they prefer.

Providing a general description of the dog's barking pattern (e.g., "It barks for short bursts," or "It barks continuously for 10-15 minutes when triggered") is **not unduly burdensome**. The Respondent is **not** being asked for a "**forensic taxonomy**" or to provide months of detailed records; Respondent is simply asked to describe the behavior which is fundamental to the underlying dispute.

Proportionality is met because the frequency and nature of the barking are directly relevant and essential to proving your claim (nuisance/excessive noise). By refusing to provide this information, the Respondent suggests the answer would be adverse to their case.

Describing one's own dog's typical behavior is not "forensic" or "unduly burdensome."

The Respondent's non-compliance is willful because they were given an opportunity to clarify (Complainant's Rephrased and Clarified Question) and had specific knowledge of their duty (impliedly by the IPCB Order/discovery rules), yet chose to repeat the identical, evasive answer. Sanctions are necessary to reimburse Complainant for the time and expense of filing the Motion to Compel and this Reply.

13. Please describe in detail the circumstances under which your dog barks. Include, but are not limited to:

(c.) Duration? Daily or Weekly basis?

Complainant Rephrased and Clarified Question: July 03, 2025:

- **Continuous barking for 15-20 minutes or more:** Even if the ordinance doesn't say "15 minutes," a sustained period of barking for this long would likely be considered disruptive by a "reasonable person" standard.
- **Intermittent barking for extended periods:** For example, barking for 5 minutes, stopping for 2 minutes, then barking for another 7 minutes, and repeating this pattern for an hour or more, especially if it happens multiple times a day or at inappropriate hours (nighttime, early morning).
- **Habitual barking at specific triggers:** A dog that barks for several minutes every time someone walks by, or every time a car passes, resulting in frequent, short bursts of barking that add up to a significant disturbance throughout the day.

Respondent's First Answer: May 29, 2025, The dog has never barked all day or all week.

Respondent's Second Answer: September 22, 2025, the dog has never barked all day or all week.

Complainant's Argument: Same Response. **Order by IPCB on August 28, 2025.** This is a clear failure to answer. In legal discovery, this is generally unacceptable without a specific, stated objection. Response evades question. The complainant expects a full and complete answer.

An assertion of what **doesn't** happen does not describe what **does** happen.

The interrogatory seeks a description of the circumstances, duration, and frequency of the dog's barking. Respondent's answer, 'The dog has never barked all day or all week,' is a **negative pregnant** that, while stating what doesn't happen, entirely fails to disclose the relevant information about what *does* happen, thereby **frustrating the discovery process.**"

The respondent has twice been notified that this answer is insufficient, yet they re-submitted the identical, inadequate response.

Despite two prior Motions to Compel granted by the Board, and being fully aware of the Petitioner's need for a substantive answer, the Respondent has willfully resubmitted the identical, evasive answer on September 22, 2025. This pattern demonstrates bad faith and a willful refusal to comply with the Board's discovery rules and orders.

Respondent's Response November 03, 2025: 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.

Complainant's Argument: Same response as (b) or omitted.

Order by IPCB on August 28, 2025. This is a clear failure to answer. Evades question. The Complainant expects a full and complete answer.

Respondent's blanket refusal to produce even basic, relevant information is a transparent effort to obstruct discovery and hide information relevant to their liability, warranting sanctions.

17. What is your motivation for allowing your dog to bark? Please explain.

Respondent's First Answer: May 29, 2025, Objection. Vague and irrelevant.

Respondent's Second Answer: September 22, 2025, Vague and irrelevant. Further, this allegation assumes facts not in evidence as well as assumes Mr. Egan has a motivation for his dog's barking and again is more appropriately address in a deposition.

Complainant's Argument: Response evades question. Objection is not justified. The complainant expects a full and complete answer without objection. The question is not irrelevant, the relevance to the complainant's claim of damages and respondent's state of mind, and the foreseeability of the accident related to the dog barking.

Complainant's Argument: I will clarify the original question above.

17. (Revised) Ms. Andrushko rephrases and clarifies the question and asks the Board to compel the following, stating that the current answers are insufficient:

17 (a.) Prior to the filing of this Complaint, June 26, 2023, were you aware of any complaints, verbal or written, from the Complainant or any other source, regarding your dog's barking? If so, state the approximate date and nature of each complaint.

17 (b.) Identify all steps, if any, you have taken since June 26, 2023, to prevent your dog from barking excessively on the property. Include the date each step was implemented, and attach copies of any supporting documentation (e.g., receipts for bark collars, contracts with dog trainers, notes from a veterinarian).

Respondent's Response November 03, 2025: 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.

Complainant's Argument: Order by IPCB on August 28, 2025. Evades question. The complainant expects a full and complete answer.

Regarding "Irrelevant": The Respondent's state of mind and awareness prior to the complaint are absolutely relevant to the dispute and the Respondent's responsibility for something that has been done wrong from the start.

Regarding "Overly Burdensome": The burden of producing a few receipts or notes to support stated actions is minimal. The Respondent has volunteered that he has taken steps (installed a screen, restricted access); therefore, a request for the supporting documentation and dates is a proper follow-up to verify and corroborate those claims.

Respondent's initial answers (May 29, 2025, and September 22, 2025) and subsequent opposition (November 11, 2025) constitute an abuse of the discovery process and a blatant attempt to avoid disclosing relevant information.

The Board requires specific evidence (dates, types of screens, costs, training methods) to determine if the mitigation efforts were timely, reasonable, and genuinely implemented to abate the nuisance.

In order to be good faith, the Respondent must disclose all steps taken. If the Respondent has purchased a bark collar, hired a trainer, or consulted a vet, that information must be disclosed, regardless of whether he deems it sufficient. His partial disclosure is an attempt to limit the scope of his efforts without complete transparency.

Grant Sanctions against the Respondent for the multiple, unjustified objections and repeated evasion, which has unnecessarily delayed the proceedings and increased the Complainant's time and money.

26. Do you dispute that the barking of your dog has caused a disturbance to Ms. Andrushko? If so, please state all the reasons for your denial?

Respondent's First Answer: May 29, 2025, Objection. Calls for speculation, is irrelevant and vague.

Respondent's Second Answer: September 22, 2025, Objection. Call for speculation, is irrelevant and vague. Further, the question asks Mr. Egan to guess as to Ms. Andrushko's state of mind. Mr. Egan can state that the dog's barking has never caused a disturbance to anyone else.

Complainant's Argument: Complainant's Response evades question. Object is not justified. The Complainant expects a full and complete answer without objection.

The question is **not speculative**, but rather something the respondent should know or be able to answer and seeks information from the client's knowledge and/or understanding.

The question is **not irrelevant**, the relevance to the Complainant's claim of damages and Respondent's state of mind, and the foreseeability of the accident related to the dog barking.

Regarding **relevance**; The question goes to the very heart of the case: **nuisance/disturbance** caused by the dog. It's clearly relevant to the claims and defenses.

Regarding **vagueness**: The term "disturbance" is directly related to the subject matter of a noise complaint and the alleged violation. It is a sufficiently defined term in the context of the IPCB's jurisdiction regarding noise pollution.

Regarding **state of mind**: The question does NOT ask for Mr. Egan's knowledge of your state of mind. Instead, it asks for the **basis of his factual defense**. If Respondent is denying the disturbance, he must have a factual basis for that denial.

The Respondent must provide the facts that support their position. By refusing to answer, the neighbor is concealing the facts and theories he intends to rely on to prove the dog's barking was **not** a disturbance. This defeats the purpose of discovery, which is to simplify and narrow the issues.

Complainant's Argument: I will clarify the original question above.

26. (Revised) Ms. Andrushko rephrases and clarifies the question and asks the Board to compel the following, stating that the current answers are insufficient:

Please state all facts, reasons, and evidence upon which you rely to support your defense that the barking of your dog does not constitute a noise violation or an unreasonable disturbance as alleged in the Complaint. For each reason, identify all supporting documents and witnesses.

Respondent's Response November 03, 2025: 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.

Complainant's Argument: Order by IPCB on August 28, 2025. Evades question. The complainant expects a full and complete answer.

Respondent's blanket refusal to produce even basic, relevant information is a transparent effort to obstruct discovery and hide information relevant to their liability, warranting sanctions.

The Respondent's objections are without merit and appear to be an attempt to obstruct legitimate discovery. The answers provided are evasive and incomplete.

Because the Respondent failed to provide a defensible response to the original proper question, the Complainant requests that sanctions be imposed associated with bringing this necessary motion to compel.

"Disturbance to Anyone Else" is Insufficient: The Respondent's revised answer stating the dog "has never caused a disturbance to anyone else" is an incomplete and non-responsive answer to the core issue. The complaint specifically alleges a disturbance to Ms. Andrushko. A general statement about other neighbors does not address the specific factual allegations in this case.

This question is a necessary follow-up to the non-responsive initial answers. It directly addresses the factual and evidentiary basis for the Respondent's denial of the complaint. Without this information, the Complainant is forced to guess which facts the Respondent will rely on at the hearing, leading to trial by ambush. This is contrary to open discovery.

The Respondent's objections are without merit and appear to be an attempt to obstruct legitimate discovery. The answers provided are evasive and incomplete.

27. Describe your understanding of local noise or nuisance ordinances related to dog barking.

Respondent's Answer: May 29, 2025, Objection. More appropriately answered in a deposition, is irrelevant and vague.

Respondent's Answer September 22, 2025, Objection. More appropriately answered in a deposition, is irrelevant and vague, and calls for a narrative answer again more appropriately address in a deposition. Mr. Egan has never been cited for a violation of any local noise or nuisance ordinances.

Complainant's Argument: The answer is non-responsive. Order by IPCB on August 28, 2025. This is a clear failure to answer. Response evades question. Objection is not justified. The Complainant expects a full and complete answer without objection.

Regarding **relevancy:** The IPCB is hearing a complaint about a noise nuisance. The core of your case is that the dog's barking **unreasonably interferes with the enjoyment of your life and property**, which is a key component of a nuisance claim under Illinois law.

- The Respondent's **understanding** of what constitutes a violation or nuisance is directly relevant to whether they are acting in good faith to correct the problem or if they can even **perceive** that a violation is occurring. It goes to the issue of **intent, knowledge, or willfulness** in allowing the noise to continue, which can be relevant to the Board's decision on a civil penalty or abatement order.
- Regarding **vague**: The question is straightforward: "**Describe your understanding...**" This is not a vague request; it clearly asks for a description of the Respondent's knowledge or belief regarding a specific topic.

While an interrogatory answer should be "full" and "separate," the nature of your question—"Describe your understanding..."—is inherently descriptive. Illinois Supreme Court rules (which the IPCB often looks to for guidance when its rules are silent) permit interrogatories that call for a **narrative** if it is the only way to obtain a full and complete answer. A simple "yes" or "no" or a one-word answer would not be a "full" response, as required by the IPCB's rules for interrogatories.

"Mr. Egan has never been cited for a violation..." is a partial answer but **does not address the question**. Whether he has been *cited* is a separate fact from **whether he understands the ordinance**.

Many complaints are brought by private citizens before the IPCB, often because local authorities haven't enforced the issue or don't have jurisdiction over the specific type of noise pollution. Ms. Andrushko is asking for Mr. Egan's **knowledge** of the law, not his **citation history**.

Respondent's Response November 03, 2025: 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.

Complainant's Argument: Order by IPCB on August 28, 2025. Evades question. The Complainant expects a full and complete answer.

The Federal Rules of Civil Procedure allow a party to use both interrogatories and depositions; one does not automatically replace the other.

The question asks for the Respondent's personal understanding of the ordinances, not their **attorney's legal analysis or the legal interpretation of the text**.

The Interrogatory does not seek a **legal opinion**: Most rules of civil procedure allow interrogatories that ask for an opinion. The Respondent's objection that the question **"improperly seek[s] legal opinions"** is overly broad and likely invalid under the relevant procedural rules. The question asks for the Respondent's understanding of the ordinances. This is not asking for a legal conclusion (like "Is the ordinance constitutional?"), but for their factual knowledge and application of that knowledge to the incident (the barking).

Relevance: In a nuisance case, whether the Respondent knew their actions violated a local law or standard is highly relevant to whether their conduct was unreasonable or excessive.

Public Record: While the text of an ordinance is a "matter of public record," Complainant is not asking the Respondent to produce the text. Complainant is asking what the Respondent believed the text required of them.

The Request for Sanctions Lacks Merit

While the Respondent provided some substantive answers, the answers provided were evasive, incomplete, and non-responsive to the core of the discovery requests.

Labeling an answer as a "good-faith objection" does not make it so if the objection is baseless or overly broad, effectively hiding discoverable information.

Answers they provided (e.g., regarding "triggers and mitigation") were "insufficient"; lacking detail, documents were not produced, failed to identify any specific documents, witnesses, dates relevant to any mitigation.

The pattern of responses suggests more than a simple disagreement:

- **Pattern of Conduct:** The failure to adequately respond is a pattern of conduct across multiple requests, indicating a deliberate strategy to delay or obscure relevant information, which rises to the level of willful noncompliance or, at a minimum, gross negligence.
- **Evasive Answers are Noncompliance:** FRCP 37(a)(4) which typically treats an evasive or incomplete answer as a failure to answer. Therefore, their "timely responses" are effectively non-responses.

First and foremost, the Motion to Compel must be granted because the discovery sought is relevant and non-privileged. The inadequacy of their responses necessitates a court order.

Respondent's interpretation of the scope is unreasonably narrow, and their objections are boilerplate (generic, non-specific) and unjustified under the rules of discovery.

The information Respondent withheld or provided inadequately is critical to Complainant's case and squarely falls within the accepted scope of discovery for this type of litigation.

Complainant communicated by requesting answers and rephrasing questions; however, Respondent's position did not meaningfully shift, and they refused to provide adequate responses despite Complainant's good-faith efforts to resolve the dispute informally through mediation.

The "confer" process failed because they maintained their evasive position, leaving Complainant no choice but to file the motion.

Their resistance is not an honest dispute over interpretation but as an unreasonable and unjustified hindrance to the fair progression of discovery, warranting the Board's intervention and the recovery of Complainants time and the Board's time.

Conclusion:

The lack of complete answers by the respondent is prejudicing the Complainant's ability to prepare her case.

Request the Hearing Officer the power to compel compliance and, for willful non-compliance, to impose sanctions like deeming facts admitted, asserting costs for an unreasonable failure to comply with discovery rules.

Request the Hearing Officer the power to grant in favor of Complainant, Ms. Andrushko's, Summary Judgement date stamped and filed with the Clerk's Office on May 28, 2025.

Request for sanctions against the Respondent, Thomas E Egan and attorney, David A Fewkes, Walsh, Fewkes & Sterba for their failure to comply.

Request the Hearing Officer deem the facts in the interrogatory to be admitted to the case, as follows:

(9 c) Due to their refusal to answer, the respondent is deemed to **admit that Mr. Egan does *not* teach boundaries** or have any relevant documentation.

(9 d) Due to their refusal to answer, the Respondent is deemed to **admitted that Mr. Egan has taken NO steps** to eliminate the excessive barking.

(9 e) Due to Respondent's refusal to answer, the Respondent is deemed the answer as "**zero stimulation**".

(13 b) Due to their refusal to answer, the Respondent is deemed "**excessive and continuous**" or in your favor because the defendant refuses to answer truthfully.

The Complainant respectfully requests the Board grant 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: Anna Andrushko

Anna Andrushko