

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

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JAN - 8 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD ~~STATE OF ILLINOIS~~
POLLUTION CONTROL BOARD

MORRY GABEL, MYRA GABEL,)
DON FOREMAN, MARSHA FOREMAN,)
KEITH PINSONEAULT and TRACY PINSONEAULT.)

Complainant,)

vs.)

No. PCB 03-38

THE WEALSHIRE, INC., an)
ILLINOIS CORPORATION.)

Respondent.)

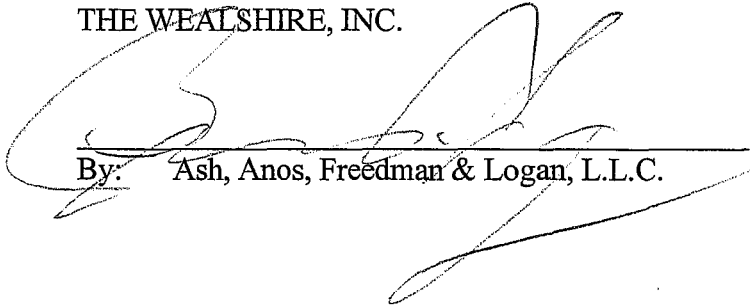
NOTICE OF FILING

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 West Randolph Street
Chicago, IL 60601

Mitchell S. Feinberg
Chuhak & Tecson, P.C.
30 South Wacker Drive
Suite 2600
Chicago, IL 60606

PLEASE TAKE NOTICE that on the 8th day of January, 2004, there was filed with the Illinois Pollution Control Board Respondent's Answers And Objections To Complainants' First Set Of Interrogatories, a copy of which is attached and herewith served upon you.

THE WEALSHIRE, INC.


By: Ash, Anos, Freedman & Logan, L.L.C.

Bruce T. Logan
Ash, Anos, Freedman & Logan, L.L.C.
77 West Washington Street
Chicago, IL 60602
312-346-1389
Attorneys for Respondent

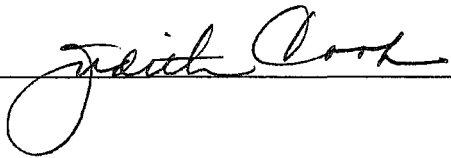
AFFIDAVIT OF SERVICE

The undersigned, being first duly sworn on oath, deposes and says that she served the above and foregoing Notice of Filing and Answers And Objections To Complainants' First Set Of Interrogatories by mailing a copy of each pleading to:

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph Street
Chicago, IL 60601
FAX 312-814-3669

Mitchell S. Feinberg
Chuhak & Tecson, P.C.
30 South Wacker Drive
Suite 2600
Chicago, IL 60606
FAX 312-444-9027

and depositing same in the U.S. Mail Chute at 77 West Washington Street, Chicago, Illinois 60602, at 5:00 P.M. on January 8, 2004, with proper postage prepaid.



Subscribed and sworn to before me

this 8th day of January, 2004



NOTARY PUBLIC

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

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STATE OF ILLINOIS
POLLUTION CONTROL BOARD
100 W. RANDOLPH STREET, SUITE 11-500
CHICAGO, ILLINOIS 60601

STATE OF ILLINOIS
POLLUTION CONTROL BOARD

MORRY GABEL, MYRA GABEL,)
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ANSWERS AND OBJECTIONS TO COMPLAINANTS'

FIRST SET OF INTERROGATORIES

NOW COMES the Respondent, THE WEALSHIRE, INC., an Illinois Corporation, and in response to the Complainants' First Set Of Interrogatories, states under oath, as follows:

1. Please identify all persons who assisted with the preparation of your responses to these Interrogatories, whom you or your attorney(s) or other agents consulted in the preparation of your responses to the Interrogatories, and/or who otherwise provided any information used in the preparation of your responses to these Interrogatories, and indicate the Interrogatories with which each such person assisted or was consulted or provided information.

ANSWER: Arnold Goldberg and Ralph Chapman, The Wealshire, Inc., 150 Jamestown Lane, Lincolnshire, IL 60069

2. Please provide the acquisition/purchase price of the Wealshire, Inc.

ANSWER: The Wealshire is an operating corporation that did not purchase the facility.

3. What was the date of closing for the purchase of the Wealshire, Inc. and the date the Wealshire, Inc. first began operating?

ANSWER: The Wealshire was never purchased or sold. Its business is the operation of the care facility for Alzheimer's patients.

4. Please provide the dimensions of each building or structure located on Respondent's business premises.

ANSWER:

- A) Wealshire 75,418 sq. ft. 1st floor and basement
- B) Ponds 86,138 sq. ft. 1st and 2nd floors

5. Please specifically identify under what property classification The Wealshire, Inc. is zoned.

ANSWER: The property is zoned PUD Commercial in the Village of Lincolnshire.

6. Please provide Complainant with a written timetable listing the time of day each of the air conditioning units complained of are running over the course of a year.

ANSWER: There is no written timetable for the operation of the air cooling units. The air conditioning system is winterized and is not brought online until the spring. The air conditioning units were serviced and the winterizing antifreeze material that was put into the lines in 2002 was removed by outside service on June 19, 2003. Following the filing of the formal Complaint in this cause, the entire operation of the air conditioning equipment was changed from manual to automatic controls, which were thermostatically set to run on a temperature range of 75° +/- 2°. This means the temperature range within the facility is 3° to 5° higher than in prior years when the system was manually operated.

In the fall of 2003, the system was winterized on October 28, 2003. This occurs when the staff determines the likelihood of continued frost and is not scheduled in advance.

7. Identify every noise source on your property which can be heard or detected at any location outside any of the buildings or structures located on your property.

(a) If the noise source is mechanical, identify the machine by type, manufacturer, model, serial number, and the purpose for which each such machine is used, and state the times at which each such machine is operated, and the date upon which each such machine was installed, and where each is located.

ANSWER: The Wealshire does not have a survey of its equipment that allows it to respond to Interrogatory No. 7. Besides the air conditioning cooling system on the north side of the building, which faces the Complainants' property, there is an air conditioning system on the south side of the building. The entire Wealshire site consists of approximately 18 acres and the total square foot of the structures on the site approximates 161,000 sq. ft. In the past, the Complainants' neighbors have complained of noise from the hoist used to raise the flags on the flagpole on the northwest quadrant of the property. Measures were taken to eliminate the complained of noise in the hoist lines.

8. Please provide Complainants with a list of those measures taken to reduce the noise of the air conditioning units complained of, including, but not limited to any modifications made by the Wealshire, Inc. to stop any sound from escaping from any air conditioning units.

ANSWER: Based on the O'Neill recommendations, The Wealshire began remedial modification during the pendency of the claim, including the following:

1. The entire operation of the air conditioning equipment was changed from manual controls to automatic controls, which were thermostatically set to run on the temperature range of 73°, plus or minus 2°. This means the temperature range within the facility is 3° to 5° higher than in prior years.

2. Hill Mechanical was hired to check all of the air conditioning equipment and anything needing attention or repairs was repaired. This included repair to Compressor No. 2 and changes to the fan and blade. This was completed around June 24, 2003.

3. A formal assessment was made of the system by O'Neill. Their initial recommendations were contrary of the local zoning ordinances and would have taken an extensive amount of time to implement, because of the need to petition the Village of Lincolnshire for variances to its building code.

4. O'Neill then recommended the installation of a sound insulation blanket system. This system was purchased from O'Neill and the installation was completed on July 18, 2003. O'Neill's testing showed a reduced noise level.

5. Noise absorption panels with mylar exterior covering sound insulation were applied to the north inside walls of the masonry structure in October of 2003, as recommended by O'Neill.

6. In November of 2003, a 28" deflecting shield was mounted above the 8 1/2' masonry wall enclosure on the north side. This shield was constructed according to O'Neill's specifications.

9. Have you or anyone on your behalf prepared or obtained an estimate for the cost of relocating the air conditioner(s) at issue to the opposite side of the Wealshire, Inc. (the side not bordering residential properties)? If the answer is in the affirmative, please provide the company/individual providing the estimate, as well as the estimated cost

ANSWER: Not at this time.

10. Have you or anyone on your behalf obtained plans and specifications (or, if a product by a specific manufacturer, the name of the manufacturer and the product designation) for any sound barriers or other devices that would affirmatively reduce all noise violations to levels not in violation of current laws? If your answer is in the affirmative, describe the nature of such sound barriers or other devices.

ANSWER: We have produced the O'Neill Engineered materials concerning the potential for reducing the noise to acceptable levels. The revised recommendations, which are identified in Answer to Interrogatory No. 8 above, have been followed by The Wealshire.

11. Please provide Complainants with copies of any written instructions on measures to reduce the noise of the air conditioning units complained of.

ANSWER: The O'Neill materials have been provided.

12. Please specifically identify every sound level measurement taken on your property or elsewhere of any sound or noise of any kind which emitted from The Wealshire, Inc.'s property, the date and time such measurements were taken, who took such measurements, each other person who was present when such measurements were taken, the manner in which such measurements were taken (including what type of equipment was used and what methods were used to take such measurements), the sound or noise levels recorded by such measurements, any other results of such measurements, and whether such measurements were written or otherwise recorded and, if so, who is in possession of such writings or recordings.

ANSWER: The O'Neill Engineered materials have been provided.

13. Please state what Respondent contends is a reasonable amount of noise (in decibels or other uniform measurement) for it to produce at its Lincolnshire location.

ANSWER: The Wealshire believes its remedial measures have significantly reduced the noise emanating from its premises. O'Neill Engineered has indicated the Complainants own air conditioning units may be violative of the current Board standards. O'Neill Engineered has informed us that the noise level will be significantly reduced by the remedial measures taken by The Wealshire. The Wealshire intends to take further measurements when the units are put back on line in the spring of 2004.

14. Please state whether your expert witness has offered any alternative measures to reduce the decibel level from the Wealshire, Inc.'s air conditioning units, including, but not limited to the measures suggested, the cost of implementing such measures and whether the Respondent or its experts have made any inquiries to the manufacturer, Trane, as to whether such modifications would be acceptable.

ANSWER: Yes. O'Neill Engineered has made recommendations. The recommendations are contained in the materials produced. All of O'Neill's revised recommendations have been implemented by The Wealshire.

15. Has anyone complained to you, in writing or orally, about noise from your facility? If so, provide the name, address and phone number of each such person, and provide the date and contents of each such complaint.

ANSWER: In the past there have been various complaints as noted concerning the hoisting lines for the flagpole on the property's northwest quadrant. The name of the complainant is not known. In the sum of 2001, a lawyer sent a letter saying there was too much noise from the air conditioners, but did not send anything to support the claim. also, at various times there have been complaints by property owners on the north that delivery trucks allowed their engines to idle too long and measures were taken to correct those complaints, but the names of the complainants are not known.

16. Is Respondent aware of anyone complaining to any governmental agency, in writing or orally, about the noise from Respondent's facility? If so, provide the name, address and phone number of each such person, and provide the date and contents of each such complaint.

ANSWER: As stated in the answer to Interrogatory No. 15 above, there have been noise complaints to the Lincolnshire Police about idling delivery vehicles. It is unknown who made such complaints.

17. Identify with particularity every federal, state and local law, ordinance or regulation which you contend applies to or governs the noise produced at your facility.

ANSWER: Unknown.

18. Have you (or has anyone acting on your behalf) had any conversations with any person at any time with regard to the manner in which the incidents complained of occurred, or have you overheard any statements made by any person at any time with regard to the damages complained of by Petitioners or the manner in which the incidents complained of occurred? If the answer to this Interrogatory is in the affirmative, state the following:

- (a) The name and address of each such witness;
- (b) The date or dates of such conversations and/or statements;
- (c) The place of such conversations and/or statements;
- (d) All persons present for the conversations and/or statements;
- (e) The matters and things stated by the person in the conversations and/or statements;
- (f) Whether the conversation was oral, written and/or recorded; and
- (g) Who has possession of the statement if written and/or recorded?

ANSWER: No.

19. Please list the names and addresses of all other persons (other than yourself and persons heretofore listed) who have knowledge of the facts of the incidents complained of and/or any other allegations contained in Petitioners' Complaint and/or the damages claimed to have resulted therefrom, and/or Respondent's defenses to Petitioners' claims.

ANSWER: Arnold Goldberg, Ralph Chapman, Tim O'Neill and staff employees of O'Neill Engineered Systems.

20. Please provide the name and address of each witness who will testify at the hearing of this matter and state the subject of each witness' testimony.

ANSWER:

A. Ralph Chapman will be called concerning remedial measures he undertook on the recommendations of O'Neill Engineered Systems. These are outlined above. He will also testify concerning the costs incurred during the course of the work. He may also be called to testify concerning the possible costs or feasibility of any recommendation made by the Complainants or the Complainants' expert concerning the suppression of noise.

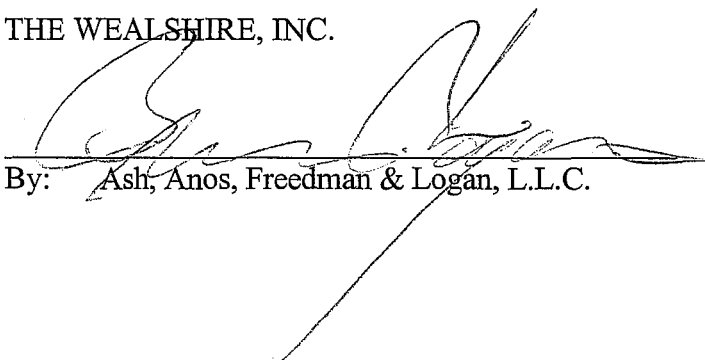
B. Arnold Goldberg may be called concerning the operation of the mechanical systems in the building prior to the employment of Ralph Chapman. Other areas he may testify to are dependent upon the identification of the Complainants' claims and the findings and recommendations of the Complainants' expert.

C. Timothy F. O'Neill, O'Neill Engineered Systems. It is anticipated that he will testify that the measures taken will significantly reduce the noise emanating from the chiller units; that a noise enclosure for the chiller units would be contrary to the recommendations of Trane, the manufacturer, and that it would be cost prohibitive; that the modifications made by The Wealshire represent the only available engineering alternatives given the zoning, manufacturer's specifications, and cost constraints. He will be asked to evaluate the Greg Zak test analysis and recommendations.

21. Please identify any statements, information and/or documents or other evidence known to you and requested by any of the foregoing Interrogatories or by any Request for Production propounded on you by Petitioners which you claim to be work product or subject to any common law or statutory privilege, and with respect to each Interrogatory, specify the legal basis for the claim.

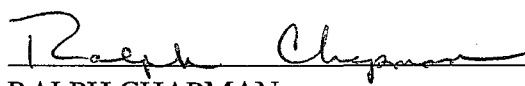
ANSWER: None.

THE WEALSHIRE, INC.


By: Ash, Anos, Freedman & Logan, L.L.C.

Under penalties as provided pursuant to 735 ILCS 5/1-109, the undersigned certifies that the statements sets forth in this instrument are true and correct, except as to matters stated herein to be on information and belief, and as to such matters, the undersigned certifies as aforesaid that he verily believes same to be true.

SIGNED this 7TH day of January, 2004



RALPH CHAPMAN

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