

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

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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.)

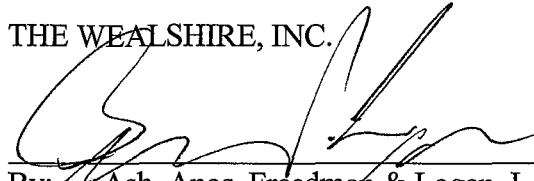
NOTICE OF FILING

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 1 day of October, 2003, there was filed with the Illinois Pollution Control Board Respondent's Motion To Stay Proceedings, 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

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STATE OF ILLINOIS
Pollution Control Board

The undersigned, being first duly sworn on oath, deposes and says that she served the above

and foregoing Notice of Filing and Motion To Stay Proceedings by mailing a copy 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
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and depositing same in the U.S. Mail Chute at 77 West Washington Street, Chicago, Illinois 60602,
at 5:00 P.M. on October 1, 2003, with proper postage prepaid and by faxing a copy to the numbers
indicated above on October 1, 2003.

Loral DeRose

Subscribed and sworn to before me

this 1st day of October, 2003


NOTARY PUBLIC DOREEN M. SEAL
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES: 03/16/04

STATE OF ILLINOIS
COUNTY OF COOK

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STATE OF ILLINOIS
Pollution Control Board

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

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

Complainants,)

vs.)

No. PCB 03-38

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MOTION TO STAY PROCEEDINGS

NOW COMES the Respondent, THE WEALSHIRE, INC., an Illinois Corporation, by its Attorneys, Ash, Anos, Freedman & Logan, L.L.C., and moves that this cause be stayed to allow the Respondent to continue modifications to its air conditioning system and for an opportunity to conduct its own testing after the improvements to the air conditioning equipment have been made, upon the following:

1. The Wealshire, Inc. is the operator of a residential Alzheimer's disease care facility and home. This matter came on a citizens' Complaint of six individuals under §5/31(d) of the Act. The Complaint was filed on September 27, 2002, which inexplicably complained of a year-round noise allegedly emanating from The Wealshire's air conditioning units.

2. The Complainants filed their Complaint on September 27, 2002 without providing The Wealshire with a copy of any written report concerning the claim of noise pollution. The Complainants' report was not issued until December 31, 2002 and was not provided to The Wealshire until some time early in February of 2003. Once it received the report, The Wealshire could not perform its own test until late June of 2003, since the system was not operable.

3. The Complaint was later amended on February 25, 2003. This was after the Complainants were informed that the air conditioning equipment does not operate year round, but operates only during the spring, summer, and early fall seasons - from the middle of June until the end of September. During the remainder of the year, it is winterized with ethanol to prevent freezing, since it is a water based cooling system.

4. To the Wealshire's knowledge, its facility was in complete compliance with local zoning requirements of the Village of Lincolnshire. The Trane air conditioning units, including the chillers and compressors, are standard units which are surrounded by 8'5" solid masonry walls. The walls on the Complainants' side are fronted by tall pine trees.

5. Under normal enforcement procedures under §5/31(a)(1), the Respondent would have been given notice by the Board and an opportunity to review technical tests concerning the decibel level and proposed remedial resolutions under §5/31(a)(1), (b), and (c) prior to the filing of a formal complaint as provided in §5/31(c). It would have been given an opportunity to come into compliance prior to the filing of a formal complaint (§5/31), and it would have been given notice under §5/31(c) that there was financing available under the Illinois Environmental Facilities Financing Act.

6. The Wealshire, once it reviewed the report and before it was able to confirm the complained of noise conditions by its own independent testing, began looking into possible means

of quieting any noise emanating from the system. Inquiry was made to the manufacturer, Trane, which recommended O'Neill Engineered Systems, Inc. of Hartland, Wisconsin (herein "O'Neill"). They were contacted and provided recommendations.

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

A. 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.

B. Hillman 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 on June 24, 2003.

C. 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.

D. 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.

E. O'Neill's other recommendations were the installation of perforated steel and insulation noise absorption panels for the inside walls of the masonry enclosure, and a deflecting wooden shield mounted above the 8'5" masonry enclosure on the Complainants' side. This equipment was ordered and will be completed by the end of October, 2003.

8. A complete installation of the modifications may not be accomplished before the first frost. The system must now be winterized to protect its integrity. Winterization work is performed by an outside firm and it is costly. Winterization costs approximately \$3,000.00. It involves draining the water from the entire system and replacing it with ethanol in order to prevent freezing and bursting of the water circulation pipes. The system cannot operate once it is winterized.

9. Until completion of the installation of the improvements to the system and the restart of the system next June, it will be impossible for the Respondent to conduct its own sound test to determine if the decibel level resulting from the modifications and insulation has diminished. A preliminary test performed by O'Neill indicates the initial improvement, i.e. the installation of the sound deadening jackets, has reduced the decibel level significantly. At this point, O'Neill indicates the installation of the sound deadening panels will further mitigate the decibel level.

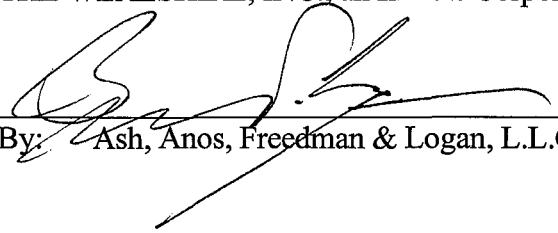
10. To proceed with discovery and a hearing before the Respondent has had an opportunity to modify the air conditioning system and to conduct its own independent final tests would impose an unreasonable and arbitrary hardship on the Respondent. A stay will not impose any hardship on the Complainants, since the system will be shut down until June, 2004. A stay will prevent a waste of economic resources of the parties and the Board, since the modifications should satisfy the sound level complaints. As far as the Respondent can determine, there is no other reasonably economic method of sound suppression available, other than that already being implemented by the Respondent.

11. It would pose a completely unreasonable and arbitrary hardship on the Respondent to turn off the air conditioning system during the summer months. This would force a closing of

the facility. The Alzheimer's patients cannot be without the benefit of air conditioning during the summer season.

WHEREFORE, the Respondent, THE WEALSHIRE, INC., an Illinois Corporation, moves that a stay be granted staying these proceedings until the final installation of the proposed modifications by the Respondent and until after the Respondent has had an opportunity to conduct its own independent sound testing. Respondent respectfully requests that this cause be stayed until June 30, 2004 to prevent an unreasonable and arbitrary hardship on the Respondent.

THE WEALSHIRE, INC., an Illinois Corporation


By: _____
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