

State of Illinois
POLLUTION CONTROL BOARD
JAMES R. THOMPSON CENTER
100 W. RANDOLPH STREET, SUITE 11-500
CHICAGO, ILLINOIS 60601

RECEIVED
CLERK'S OFFICE

APR 28 2009

STATE OF ILLINOIS
Pollution Control Board

FORMAL COMPLAINT

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

Peter Arendovich _____)
_____)
_____)
_____)
(Insert your name(s) on lines)
above,))
)
Complainant(s),)
)
v.)
)
The Illinois State Toll Highway Authority)
_____)
_____)
_____)
(Insert name(s) of alleged polluter(s))
on lines above,))
)
Respondent(s).)

PCB 09-102
(For Board use)

Note: If you do not use this formal complaint form and instead draft and type your own, it must contain all of the information requested by this form. All items must be completed. If there is insufficient space to complete any item, you may attach additional sheets, specifying the number of the item you are completing. Once completed, you must file the original and nine copies of the formal complaint, notice to respondent, and certificate of service with the Clerk of the Board at the above address.

1. Your name, street address, county, state:

Peter Arendovich
1388 Gordon Lane
Lemont, IL 60439

Phone: 630 257-8753
2. Place where you can be contacted during normal business hours (if different from above):

Phone: Cell 630-788-8264
3. Name and address of respondent (alleged polluter):

The Illinois State Toll Highway Authority
2700 Ogden Avenue
Downers Grove, IL. 60515
Phone: 630-241-6800

4. Describe the type of business or activity that you allege is causing or allowing pollution (e.g., manufacturing company, home repair shop) and give the address of the pollution source if different than the address above:

The business causing the noise pollution is the profit making government agency known as the Illinois State Toll Highway Authority. The noise pollution is caused by the I-355 extension (Veterans Highway) between the 135th Street Bridge and Archer Avenue.

5. List specific sections of the Environmental Protection Act, Board regulations, Board order, or permit that you allege have been or are being violated:

35 Ill. Adm. Code, Subtitle H, Chapter I, Section 900.102

6. Describe the type of pollution that you allege (e.g., air, odor, noise, water, sewer back-ups, hazardous waste) and the location of the alleged pollution. Be as specific as you reasonably can in describing the alleged pollution:

The noise pollution is caused by the traffic along the I -355 extension (Veterans Highway) in the area between 135th Street and Archer Avenue, specifically on the 135th Street Bridge. The 135th Street Bridge is 540 feet long and does not have a sound barrier.

7. Describe the duration and frequency of the alleged pollution. Be as specific as you reasonably can about when you first noticed the alleged pollution, how frequently it occurs, and whether it is still continuing (include seasons of the year, dates, and times of day if known):

The noise pollution was immediately noticeable after the I-355 Tollway (Verterans Highway) was opened on November 11, 2007. The noise pollution is continuous, 24 hours per day, seven days a week. The noise is so frequent that the IPCB db requirements are violated every minute of every day of the year. The noise becomes more intense as large trucks are crossing the bridge at high speeds during the early morning hours and late in the night.

8. Describe any bad effects that you believe the alleged pollution has or has had on human health, on plant or animal life, on the environment, on the enjoyment of life or property, or on any lawful business or activity:

The noise generated by the I-355 Tollway has resulted in an unreasonable interference with the use and enjoyment of my property and other properties in the area. The noise during the night interferes with our sleep which endangers the physical and emotional health and well-being of the families in this area.

9. Describe the relief that you seek from the Board (e.g., an order that the respondent stop polluting, take pollution abatement measures, perform a cleanup, reimburse cleanup costs, change its operation, or pay a civil penalty (note that the Board cannot order the respondent to pay your attorney fees or any out-of-pocket expenses that you incur by pursuing an enforcement action)):

We request that the board enter an order directing the respondents to install a sound barrier wall from the beginning of the bridge on 135th Street up to Archer Avenue at a height that will minimize noise entering our property. Currently, there is a short wooden wall of 240 feet in length and an average of 10 feet high on the bridge or aproximately 540 feet in length. The remaining 300 feet on the 135th Street Bridge does not have any sound barrier installed.

10. Identify any identical or substantially similar case you know of that is already pending before the Board or in another forum against this respondent for the same alleged pollution (note that you need not include any complaints made to the Illinois Environmental Protection Agency or any unit of local government):

None known.

11. State whether you are representing (a) yourself as an individual or (b) your unincorporated sole proprietorship. Also, state whether you are an attorney and, if so, whether you are licensed and registered to practice law in Illinois. (Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. Also, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, an individual who is not an attorney is allowed to represent (a) himself or herself as an individual or (b) his or her unincorporated sole proprietorship, though the individual may prefer having attorney representation.):

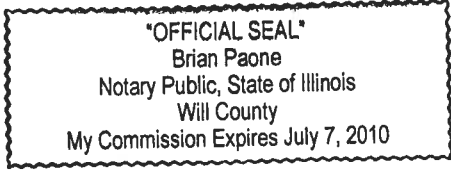
I am representing myself as an individual.

12. *Peter Arendrovich*
(Complainant's signature)

CERTIFICATION (optional but encouraged)

I, PETER ARENDROVICH, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

Peter Arendrovich
(Complainant's signature)



Subscribed to and sworn before me
this 27th day
of April, 2009.
B. Paone
Notary Public

My commission expires: 7-7-2010

NOTICE TO RESPONDENT

NOTE: THIS STATEMENT MUST BE INCLUDED IN THE SERVICE OF THE FORMAL COMPLAINT ON THE RESPONDENT

INFORMATION FOR RESPONDENT RECEIVING FORMAL COMPLAINT

Please take notice that today I filed with the Clerk of the Illinois Pollution Control Board (Board) a formal complaint, a copy of which is served on you along with this notice. You may be required to attend a hearing on a date set by the Board.

Information about the formal complaint process before the Board is found in the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.*) and the Board's procedural rules (35 Ill. Adm. Code 101 and 103). These can be accessed at the Board's Web site (www.ipcb.state.il.us). The following is a summary of some of the most important points in the Act and the Board's procedural rules. It is provided for general informational purposes only and does not constitute legal advice or substitute for the provisions of any statute, rule, or regulation:

Board Accepting Formal Complaint for Hearing; Motions

The Board will not accept this formal complaint for hearing if the Board finds that it is either "duplicative" or "frivolous" within the meaning of Section 31(d) of the Act (415 ILCS 5/31(d)) and Section 101.202 of the Board's procedural rules (35 Ill. Adm. Code 101.202). "Duplicative" means that an identical or substantially similar case is already pending before the Board or in court. *See* 35 Ill. Adm. Code 103.212(a) and item 10 of the formal complaint.

"Frivolous" means that the formal complaint seeks relief that the Board does not have the authority to grant, or fails to state a cause of action upon which the Board can grant relief. For example, the Board has the authority to order a respondent to stop polluting and pay a civil penalty, to implement pollution abatement measures, or to perform a cleanup or reimburse cleanup costs. The Board does not have the authority, however, to award attorney fees to a citizen complainant. *See* 35 Ill. Adm. Code 103.212(a) and items 5 and 9 of the formal complaint.

If you believe that this formal complaint is duplicative or frivolous, you may file a motion with the Board, within 30 days after the date you were served with the complaint, requesting that the Board not accept the complaint for hearing. The motion must state the facts supporting your belief that the complaint is duplicative or frivolous. Memoranda, affidavits, and any other relevant documents may accompany the motion. If you need more time than 30 days to file a motion alleging that the complaint is duplicative or frivolous, you must file a motion for an extension of time within 30 days after service of the complaint. A motion for an extension of time must state why you need more time and the amount of additional time you need. Timely filing a motion alleging that the complaint is duplicative or frivolous will stay the 60-day period for filing an answer to the complaint. *See* 35 Ill. Adm. Code 103.204, 103.212(b).

All motions filed with the Board's Clerk must include an original, nine copies, and proof of service on the other parties. Service may be made in person, by U.S. mail, or by messenger service. Mail service is presumed complete four days after mailing. *See* 35 Ill. Adm. Code 101.300(c), 101.302, 101.304.

If you do not respond to the Board within 30 days after the date on which the complaint was served on you, the Board may find that the complaint is not duplicative or frivolous and accept the case for hearing. The Board will then assign a hearing officer who will contact you to schedule times for telephone status conferences and for hearing. *See* 35 Ill. Adm. Code 103.212(a).

Answer to Complaint

You have the right to file an answer to this formal complaint within 60 days after you receive the complaint. If you timely file a motion alleging that the complaint is duplicative or frivolous, or a motion to strike, dismiss, or challenge the sufficiency of the complaint, then you may file an answer within 60 days after the Board rules on your motion. *See* 35 Ill. Adm. Code 101.506, 103.204(d), (e), 103.212(b).

The Board's procedural rules require the complainant to tell you as respondent that:

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney. 35 Ill. Adm. Code 103.204(f).

Necessity of an Attorney

Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. In addition, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, even if an individual is not an attorney, he or she is allowed to represent (1) himself or herself as an individual or (2) his or her unincorporated sole proprietorship. *See* 35 Ill. Adm. Code 101.400(a). Such an individual may nevertheless wish to have an attorney prepare an answer and any motions or briefs, and present a defense at hearing.

Costs

In defending against this formal complaint, you are responsible for your attorney fees, duplicating charges, travel expenses, witness fees, and any other costs that you or your attorney may incur. The Board requires no filing fee to file your answer or any other document with the Board. The Board will pay any hearing costs (*e.g.*, hearing room rental, court reporting fees, hearing officer expenses).

If you have any questions, please contact the Clerk's Office at (312) 814-3629.

CERTIFICATE OF SERVICE

I, the undersigned, on oath or affirmation, state that on (month, day, year) APRIL 27 2009, I served the attached formal complaint and notice on the respondent by: (check appropriate line)

certified mail (attach copy of receipt if available, otherwise you must file receipt later with Clerk)

registered mail (attach copy of receipt if available, otherwise you must file receipt later with Clerk)

messenger service (attach copy of receipt if available, otherwise you must file receipt later with Clerk)

personal service (attach affidavit if available, otherwise you must file affidavit later with Clerk)

at the address below:

RESPONDENT'S ADDRESS:

Name ILLINOIS STATE TOLL HIGHWAY AUTHORITY ATT LEGAL D

Street 2700 OPEN AV.

City, state, zip code DOWNERS GROVE ILL 60515
(list each respondent's name and address if multiple respondents)

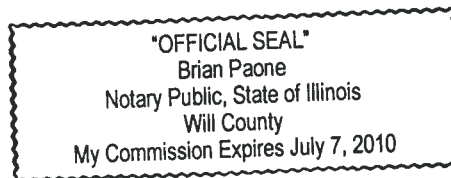
Jacob Oswald
Complainant's signature

Street 1388 GORDON LN

City, state, zip code LEMONT ILL 60439

Subscribed to and sworn before me
this 27th day
of April, 2009

B. Paone
Notary Public



My commission expires: 7-7-2010