

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

RECEIVED
CLERK'S OFFICE
NOV 23 2009
STATE OF ILLINOIS
Pollution Control Board

FORMAL COMPLAINT

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

SUSAN MALINOWSKI)
_____)
_____)
_____)
(Insert your name(s) on lines)
above,))
Complainant(s),)
v.)
CHICAGO TRANSIT AUTHORITY)
567 W. LAKE ST)
CHICAGO, ILLINOIS 60601)
_____)
(Insert name(s) of alleged polluter(s))
on lines above,))
Respondent(s).)

ORIGINAL

PCB 10-36
(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: SUSAN MALINOWSKI
7244 W BRYN MAWR
CHICAGO ILL 60631
COOK COUNTY

Phone: 773-763-8551

2. Place where you can be contacted during normal business hours (if different from above): SAME AS ABOVE

Phone: _____

3. Name and address of respondent (alleged polluter): CHICAGO TRANSIT AUTHORITY
567 W LAKE ST
CHICAGO, ILLINOIS 60661

Phone: _____
(if known)

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:
TRANSPORTATION (MASS) AT HARLEM AVENUE
BLUE LINE STATION AT THE KENNEDY
EXPRESSWAY (HARLEM + BRYN MAWR)

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

TITLE 35 ENVIRONMENTAL PROTECTION

SUBTITLE H: NOISE

CHAPTER 1: POLLUTION CONTROL BOARD

PART 901 - SECTION 901.102(a)

901.102(b)

901.104

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:

NOISE POLLUTION - CONSTANT TRAIN ANNOUNCEMENTS & CONSTANT "RUMBLING" ON THE EXTERIOR & INTERIOR OF MY PROPERTY. BLOWING OF TRAIN HORN DURING DAY & NIGHT HOURS. NOISE IS CONTINUOUS AS TRAINS RUN 24/7, APPROXIMATELY EVERY 5 MINUTES (SEE ATTACHED TRAIN SCHEDULE) MAKING APPROXIMATELY 240 STOPS/DAY. ANNOUNCEMENTS ("DING, DONG") DOORS CLOSING, THIS IS HARLEM, NEXT JEFFERSON PARK ARE MADE WITH EACH STOP. THIS NOISE PERMEATES THE INTERIOR OF MY HOME & GROUND NOISE PERMEATES THROUGH BASEMENT WALLS (FAMILY ROOM) WHICH CAN BE HEARD OVER TV VIEWING. EACH TIME TRAIN STOPS & SOUNDS CAN BE HEARD. (SEE ATTACHED NOISE LEVEL READINGS)

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):

THIS WAS FIRST NOTICED WHEN BLUE LINE "RECONSTRUCTION"

WAS COMPLETED IN SUMMER OF 2008. THE CONSTRUCTION INCLUDED

EXPANSION OF TRAIN STATION, INCREASING NUMBER OF CARS TO EIGHT

PER TRAIN, INCREASE OF TRAIN SPEED AND LOUD CHIMING AND ANNOUNCEMENTS WITH EACH STOP. THIS NOISE CONTINUES & OCCURS 24/7.

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:

THIS HAS AFFECTED MY QUALITY OF LIFE, ENJOYMENT OF MY HOME, HAS DECREASED PROPERTY VALUE & HAS AFFECTED HEALTH THROUGH SLEEP DEPRIVATION & ENJOYMENT OF LEISURE ACTIVITIES UNABLE TO KEEP DOORS/WINDOWS OPEN FOR FRESH AIR, DEEDY ME OUTSIDE ACTIVITIES ON MY PROPERTY & DOES NOT ALLOW ME ENJOYMENT/REST IN MY BASEMENT FAMILY ROOM WHERE MAJORITY OF LEISURE ACTIVITIES TAKE PLACE.

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)):

REQUESTING CTA TO PROVIDE NOISE ABATEMENT AT THE HAREN/BRYLAWE BLUE LINE STATION (NORTH SIDE) THROUGH THE USE OF FENCE, WALLS TO ABSORB NOISE & SOUND INSULATION FOR MY HOME, ESPECIALLY BASEMENT LIVING SPACE.

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 CITIZEN. I AM NOT AN ATTORNEY.

12. Susan Malinowski
(Complainant's signature)

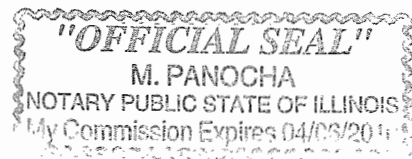
CERTIFICATION (optional but encouraged)

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

Susan Malinowski
(Complainant's signature)

Subscribed to and sworn before me this 13th day of NOVEMBER, 2009..

M. Panocha
Notary Public



My commission expires: 04/06/2010

NOISE LEVEL READINGS

OVER THE PAST YEAR I HAVE MEASURED DECIBEL LEVELS. THE FOLLOWING IS A RANGE OF LEVELS MEASURED (DECIBELS) dBA @ SLOW RESPONSE.

EXTERIOR LEVELS: NO TRAIN 63-67 dBA
TRAIN: 70-89 dBA

INTERIOR LEVELS: NO TRAIN LOW TO MID 50's dBA
TRAIN 65-67 dBA

BASEMENT LEVELS NO TRAIN REGISTERS LOW (BELOW 50 dBA)
TRAIN 57 dBA

TRAIN ANNOUNCEMENTS & CHIMES: 69-75 dBA.

NIGHT TIME LEVELS AFTER 10 PM HAVE REGISTERED 60 dBA FROM TRAIN PULLING IN OR LEAVING STATIONS.



Blue Line

Harlem

Station Timetable

Blue Line Trains

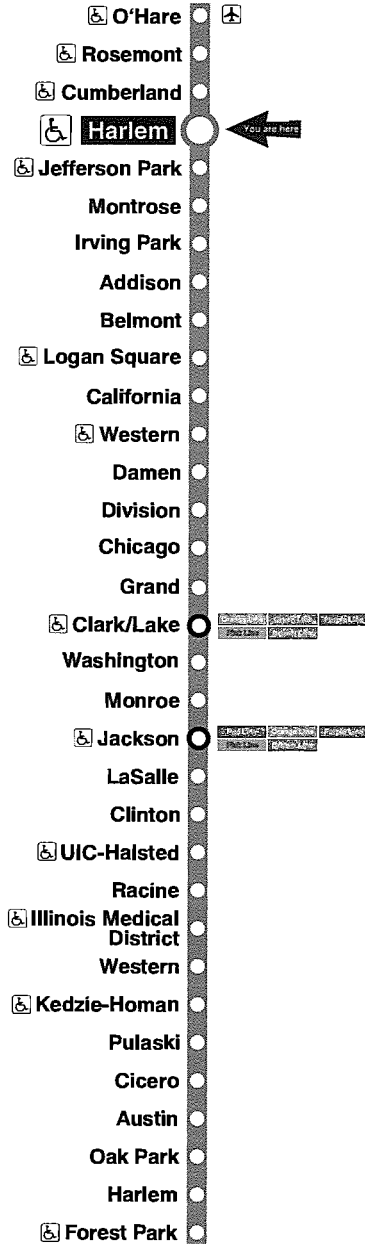
To O'Hare

Weekdays	Saturdays	Sundays
3:28am 3:58	3:28am 3:58	3:28am 3:58
4:13am 4:28 4:43 4:58	4:13am 4:28 4:43 4:58	4:13am 4:28 4:43 4:58
5:00am	5:10am	5:13am 5:28 5:43 5:58am
every 3 to 10 minutes until 10:00am	every 8 to 12 minutes until 9:00am	every 10 to 13 minutes until 8:00am
every 7 to 10 minutes until 3:00pm	every 7 to 8 minutes until 9:00pm	
every 4 to 8 minutes until 9:00pm		every 10 minutes until
every 8 to 10 minutes until 2:00am	every 9 to 11 minutes until 1:05am	12:05am
2:04am 2:14 2:29 2:58	1:20am 1:34 1:49 2:03am 2:18 2:33 2:58	12:18am 12:31 12:45 12:58 1:13am 1:28 1:43 1:58 2:13am 2:28 2:58

To Forest Park (some weekday rush period trips end at UIC-Halsted)

Weekdays	Saturdays	Sundays
3:05am 3:24 3:39 3:54	3:09am 3:24 3:39 3:54	3:09am 3:24 3:39 3:54
4:00am	4:00am	4:09am 4:24 4:38 4:51
5:00am		5:00am
every 7 to 10 minutes until 6:00am	every 10 minutes until 7:00am	every 10 to 12 minutes until 7:00am
every 3 to 10 minutes until 10:00am	every 7 to 9 minutes until 8:00pm	every 10 minutes until 10:00pm
every 6 to 10 minutes until 9:00pm	every 10 to 14 minutes until 12:10am	every 10 to 14 minutes until 11:55pm
every 10 minutes until 1:00am	12:24am 12:39 12:54 1:09am 1:24 1:39 2:09am 2:39	12:09am 12:24 12:39 12:54 1:09am 1:24 1:39 2:09am 2:39

Blue Line service operates 24 hours a day.



Travel Information:

Phone: 836-7000 (any local area code)

TTY: 312-836-4949

Website: transitchicago.com

Customer Information:

Phone: 1-888-YOUR-CTA (1-888-968-7282)

TTY: 1-888-CTA-TTY1 (1-888-282-8891)

Website: transitchicago.com

enr. 4/09



Chicago Transit Authority

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.

RECEIVED
CLERK'S OFFICE

NOV 23 2009

STATE OF ILLINOIS
Pollution Control Board

CERTIFICATE OF SERVICE

I, the undersigned, on oath or affirmation, state that on (month, day, year) NOVEMBER 16, 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 Chicago Transit Authority

Street 567 W LAKE ST

City, state, zip code Chicago, Illinois 60661

(list each respondent's name and address if multiple respondents)

Susan Mauer
Complainant's signature

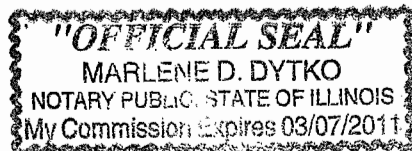
Street 7244 W Bryn Mawr

City, state, zip code Chicago, IL 60631

Subscribed to and sworn before me this 16th day of NOVEMBER, 2009.

Marlene D. Dytko
Notary Public

My commission expires: 3-7-2011



ORIGINAL

RECEIVED
CLERK'S OFFICE

NOV 23 2009

STATE OF ILLINOIS
Pollution Control Board

ORIGINAL

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
CHICAGO TRAVEL AUTHORITY
507 W. LAKE ST
CHICAGO, ILL 60601

COMPLETE THIS SECTION ON DELIVERY

- A. Signature X
 Agent
 Addressee

- B. Received by Printed Name C. Date of Delivery

- D. Is delivery address different from item 1? Yes
If YES, enter delivery address 889g: No

OTA MAIL ROOM

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
4. Restricted Delivery? (Extra Fee) Yes

2. Article Number 7009 1410 0001 0913 5276
(Transfer from service label) 7009 1410 0001 0913 5276

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-A-1540