

State of Illinois
Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
<http://www.ipcb.state.il.us/>

RECEIVED
CLERK'S OFFICE

MAY 16 2007

STATE OF ILLINOIS
Pollution Control Board

FORMAL COMPLAINT

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In The Matter Of:

Robert Habeeb
Complainant(s),

v.

The Coach House Restaurant
Respondent(s)

07-114
PCB 20 -
(For Board use only)

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 Contact Information

Name: Robert Habeeb
Street Address: 428 Springwood Drive
Roselle, Illinois 60172
County: Cook
State: Illinois
Phone Number: (630) 307 - 8518

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

Name: First Hospitality Group
Street Address: 9700 West Higgins Road, Suite 800
Rosemont, Illinois 60018
County: Cook
State: Illinois
Phone Number: (847) 299 - 9040

3. Name and address of respondent (alleged polluter)

Name: The Coach House Restaurant
Street Address: 300 North Roselle Road
Roselle, Illinois 60172
County: Cook
State: Illinois
Phone Number: (630) 893 - 0110

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

I would like to lodge a complaint and request that you take action with respect to a business premise known as "The Coach House Restaurant" located within your jurisdiction. The Coach House is located in unincorporated Cook County and operates as a Tavern/ Restaurant Licensed to serve alcoholic beverages, and offers both recorded and live entertainment. It is well known as the subject of numerous complaints and enforcement actions relating to its facilities and manor of operation. In spite of this "The Coach House" regularly promotes its music until 3:30 am (sometimes outdoors) at sound levels well in excess of those permissible under the code, creating a nuisance to homeowners in the adjoining residential area. Noise complaints are handled by the Cook County Sheriff's Office but routinely reoccur evidencing a blatant disregard of the public welfare on the part of management.

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

Sections 9.4 and 9.33 of the Cook County Illinois Environmental Control Ordinance (*i.e.* Boisterous Use and Public/Private Nuisance)

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/ Public Nuisance

Respondent currently maintains a late night liquor license and emits loud noise between the hours of 11:00 p.m. until 4:00 a.m. Most significantly the respondent permits excessively pronounced "bass" style music and disruptive parking lot noise. Also the Respondent's employees dump the facility's garbage (bottles) behind the building in metal receptacles throughout the night until 6:00 a.m.

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)

Respondent conducts business seven (7) nights per week and is licensed to operate as a tavern until 4:00 am. The alleged violations are fairly frequent throughout that period but become more pronounced during periods when the respondent offers recorded or live entertainment, particularly Thursday through Saturday night/morning. Violations can include minor disturbances such as the practice of disposing of glass bottles into a metal dumpster late at night to significant disturbances over a long period of time that are the result of playing music at a high decibel and boisterous disturbances from patrons gathering in the parking lot. There have been numerous fights and other incidents occurring in the Respondent's parking lot.

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 Respondent's business adjoins a residential area. The alleged pollution is a pervasive nuisance to the citizens who reside in that area. Effects include breach of peace and the health effects caused by disruption of sleep or rest. Neighbors cannot sleep with their windows open. Even with closed windows the noise can be heard vividly through the closed double-paned windows in my home. My youngest daughter (20 months) is often awoken during the night due to the sounds from the Respondent's facility even though her bedroom is on the other side of the house.

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))

I respectfully request that you direct the appropriate enforcement officials to investigate the operations of this business and take every action available under the law to bring "The Coach House" into regular compliance with regulations promulgated by the County and State. I believe that this business clearly is in violation of both the letter and intent of the environmental control ordinance and indeed presents a public nuisance. Complainant requests that the board order respondent to cease and desist any and all business practices that create a disturbance or create pollution by noise in any way.

A similar action was taken in Burbank, Illinois against "Champps" which required noise absorbing ceiling tiles and all doors closed. This should be the minimum of what is required for The Coach House as well as an acceptable level of their bass music which actually vibrates the walls of my home. Further, their practice of disposing of waste should only be allowed during normal business hours during the day.

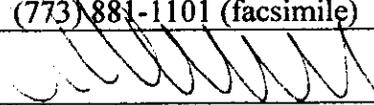
10. Identify any identical or substantially similar case you know of that is already pending before the Board or in another forum against this respondent for the same alleged pollution (note that you need not include any complaints made to the Illinois Environmental Protection Agency or any unit of local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

I know there have been numerous complaints against this Respondent with the Cook County Sheriff's Office and Village of Roselle Police Department.

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 have retained The Law Office of William A. Huff to represent me. The contact person there is Robert Huff and his information is as follows:

The Law Office of William A. Huff
10450 South Western Avenue
Chicago, Illinois 60643
(773) 881-1100
(773) 881-1101 (facsimile)

12. 
(Complainant's signature)

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

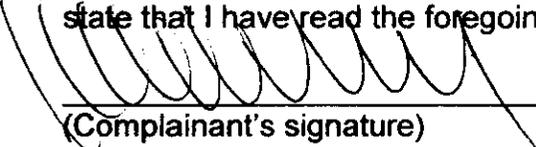
In defending against this formal complaint, you are responsible for your attorney fees, duplicating charges, travel expenses, witness fees, and any other costs that you or

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.

+CERTIFICATION
(optional but encouraged)

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

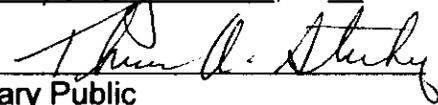


(Complainant's signature)

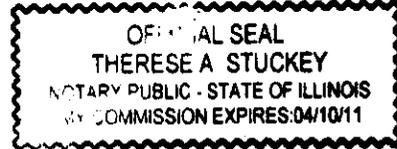
Subscribed to and sworn before me

this 14th day

of May, 2007



Notary Public



My commission expires: 4-10-11

CERTIFICATE OF SERVICE

I, the undersigned, on oath or affirmation, state that on May 17, 2007,
I served the attached formal complaint and notice on the respondent by

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 The Coach House Restaurant

Street 300 N Roselle Road

City, state, zip code Roselle Illinois 60472

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

[Signature]
Complainant's signature

Street 420 Springwood Drive

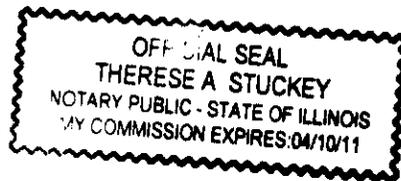
City, state, zip code Roselle Illinois 60472

Subscribed to and sworn before me

this 14th day

of May, 2007

[Signature]
Notary Public



My commission expires: 4-10-11