

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO. 2015-200
)	(Enforcement - Land)
)	
EQUITY LIFESTYLE PROPERTIES, INC.,)	
a Maryland Corporation doing business as)	
WILLOW LAKES ESTATES,)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

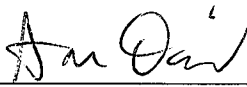
PLEASE TAKE NOTICE that today, May 19, 2015, I have electronically filed with the Office of the Illinois Pollution Control Board the following Complaint, a true and correct copy of which is hereto attached and hereby served upon you.

Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that your failure to file an answer to this Complaint within 60 (sixty) 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.

NOTIFICATION

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act (20ILCS 3515/1 *et seq.*) to correct the alleged pollution.

PEOPLE OF THE STATE OF ILLINOIS,
ex. rel. LISA MADIGAN, Attorney General
of the State of Illinois

By: 

Sammy David
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Environmental Bureau
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(312) 814-3816

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by LISA MADIGAN, Attorney)
 General of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 EQUITY LIFESTYLE PROPERTIES, INC.,)
 a Maryland Corporation doing business as)
 WILLOW LAKE ESTATES,)
)
 Respondent.)

PCB No.
 (Enforcement – Water)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, EQUITY LIFESTYLE PROPERTIES, INC., a Maryland corporation doing business as WILLOW LAKE ESTATES, as follows:

COUNT I
WATER POLLUTION

1. This Count is brought on behalf of the People of the State of Illinois, by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against Respondent, Equity Lifestyle Properties, Inc., doing business as Willow Lake Estates, pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2014).

2. The Illinois EPA is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (2014), and is charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent, EQUITY LIFESTYLE PROPERTIES, INC., ("ELP") was and is a Maryland corporation, duly authorized to do business in the State of Illinois.

4. At all times relevant to this Complaint, Respondent has owned and operated Willow Lake Estates ("Willow Lake"), a mobile home retirement community located at 161 West River Road, Elgin, Kane County, Illinois ("Site").

5. The sanitary sewage at Willow Lake is pumped through a lift station directly to a treatment plant operated by the Fox River Water Reclamation District.

6. On January 17, 2014, the Illinois EPA conducted an inspection at Willow Lake in response to an anonymous complaint that raw sewage had been discharged out of an inspection hole in the ground near the residences, and flowed approximately 300 feet into the adjacent Fox River.

7. The inspection hole is approximately 80 feet from the lift station, and allows for the length of the pipe carrying sewage to be monitored for maintenance inspections and removal of debris.

8. During the January 17, 2014 inspection, there was visible staining on the ground from the inspection hole to the edge of Fox River, indicating that raw sewage had discharged out of the inspection hole and had flowed to the river.

9. During the January 17, 2014 inspection, a representative of ELP informed the Illinois EPA inspector that the lift station pump had experienced a failure, which caused the sewage to back up and flow out of the inspection hole.

10. Section 12(a) of the Act, 415 ILCS 5/12(a) (2014), provides in pertinent part, as follows:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

11. Section 3.315 of the Act, 415 ILCS 5/3.315 (2014), provides the following definition:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

12. Respondent ELP is a “person,” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2014).

13. Section 3.165 of the Act, 415 ILCS 5/3.165 (2014), provides the following definition:

“CONTAMINANT” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

14. Untreated sanitary sewage is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2014).

15. Section 3.550 of the Act, 415 ILCS 5/3.550 (2014), provides the following definition:

“WATERS” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.

16. The Fox River is “water” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2014).

17. Section 3.545 of the Act, 415 ILCS 5/3.545 (2014), provides the following definition:

“Water pollution” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

18. The discharge of untreated sanitary sewage into waters of the State will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life, and is therefore “water pollution” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2014).

19. Respondent, by causing and allowing untreated sanitary sewage, a contaminant, to discharge from the inspection hole near the residences onto the ground and into the Fox River, thereby caused, threatened, or allowed water pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2014).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, EQUITY LIFESTYLE PROPERTIES, INC., doing business as WILLOW LAKE ESTATES, on this Count I as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);

3. Ordering the Respondent to cease and desist from future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2014);

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondent for each violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT II
CREATING A WATER POLLUTION HAZARD

1-17. Plaintiff realleges and incorporates by reference herein Paragraphs 1 through 9 and Paragraphs 11 through 18 of Count I as Paragraphs 1 through 17 of this Count II.

18. Section 12(d) of the Act, 415 ILCS 5/12(d) (2014), provides as follows:

No person shall:

d. Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

19. By causing and allowing untreated sanitary sewage, a contaminant, to deposit onto the ground at the Site and flow into the Fox River, Respondent created a water pollution hazard in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2014).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, EQUITY LIFESTYLE

PROPERTIES, INC., doing business as WILLOW LAKE ESTATES, on this Count II as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2014);
3. Ordering the Respondent to cease and desist from future violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2014);
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondent for each violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT III
VIOLATIONS OF THE NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM PERMIT REQUIREMENTS

1-14. Plaintiff realleges and incorporates by reference herein Paragraphs 1 through 9 and Paragraphs 12 through 16 of Count I as Paragraphs 1 through 14 of this Count III.

15. Pursuant to Section 402(b) of the Federal Clean Water Act ("CWA"), 33 U.S.C. 1342(b), the Illinois EPA administers and enforces the CWA's National Pollutant Discharge Elimination System ("NPDES") permit program within the State of Illinois.

16. Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), provides as follows:

No person shall:

- (f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 30(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

17. Section 1362 of the CWA, 33 U.S.C.A. § 1362 (2014), provides the following definition:

The term “point source” means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

18. The inspection hole near the residences where the untreated sewage discharged onto the ground and into the Fox River is a “point source,” as that term is defined in Section 1362 of the CWA, 33 U.S.C.A. § 1362 (2014).

19. Section 309.102(a) of the Illinois Pollution Control Board (“Board”) Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

- a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

20. Respondent ELP never applied for or received a NPDES permit from the Illinois EPA for the inspection hole at the Site from which sewage was discharged onto the ground and into the Fox River.

21. Respondent ELP caused, threatened, or allowed the discharge of contaminants from the inspection hole at the Site into waters of the State without an NPDES permit.

22. By causing, threatening, or allowing the discharge of contaminants into waters of the State from a point source without an NPDES permit, Respondent ELP thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, EQUITY LIFESTYLE PROPERTIES, INC., doing business as WILLOW LAKE ESTATES, on this Count III as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102;
3. Ordering the Respondent to cease and desist from future violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2014), and Section 309.102 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102;

4. Assessing a civil penalty against the Respondent of Ten Thousand Dollars (\$10,000.00) for each day during which each violation of the Act and any NPDES program-related regulation of the Board continued;

5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT IV

FAILURE TO PREVENT SANITARY SEWER OVERFLOWS

1-16. Plaintiff realleges and incorporates by reference herein Paragraphs 1 through 16 of Count I as Paragraphs 1 through 16 of this Count IV.

17. Section 306.304 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.304, provides as follows:

Overflows

Overflows from sanitary sewers are expressly prohibited.

18. On or before January 17, 2014, or dates better known to Respondent, Respondent ELP caused and/or allowed overflows from the sanitary sewer at Willow Lake, in violation of Section 306.304 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.304.

19. By violating Section 306.304 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.304, Respondent thereby also violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2014).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, EQUITY LIFESTYLE

PROPERTIES, INC., doing business as WILLOW LAKE ESTATES, on this Count IV as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2014), and Section 306.304 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.304;
3. Ordering the Respondent to cease and desist from future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2014), and Section 306.304 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.304;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondent for each violation of the Act and regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT V
FAILURE TO TAKE ALL REASONABLE MEASURES TO PREVENT DISCHARGE
OF SEWAGE CAUSING WATER POLLUTION

1-17. Plaintiff realleges and incorporates by reference herein Paragraphs 1 through 17 of Count I as Paragraphs 1 through 17 of this Count V.

18. Section 306.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(b), provides as follows:

Systems Reliability

- (b) Spills: All reasonable measures, including where appropriate the provision of catchment areas, relief vessels, or entrapment dikes, shall be taken to prevent any spillage of contaminants from causing water pollution.

19. On or before January 17, 2014, or on dates better known to Respondent, Respondent ELP caused or allowed overflows from the sanitary sewer at Willow Lake into the Fox River, failing to take all reasonable measures to prevent contaminants from causing water pollution, in violation of Section 306.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(b).

20. By violating Section 306.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(b), Respondent thereby also violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2014).

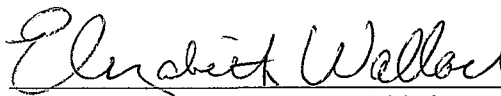
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, EQUITY LIFESTYLE PROPERTIES, INC., doing business as WILLOW LAKE ESTATES, on this Count V as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2014), and Section 306.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(b);
3. Ordering the Respondent to cease and desist from future violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2014), and Section 306.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 306.102(b);

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against the Respondent for each violation of the Act and regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering the Respondent to pay all costs, pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

By: 
ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

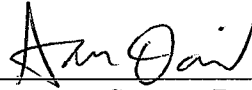
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(312) 814-3816
ARDC# 6308844

CERTIFICATE OF SERVICE

I, Sammy David, Assistant Attorney General, do hereby certify that I mailed a copy of the attached Notice of Electronic Filing and the Complaint filed in the above referenced case on the Respondent, EQUITY LIFESTYLE PROPERTIES, INC., DBA WILLOW LAKE ESTATES, by certified mail with return receipt requested to the parties listed below, today, May 19, 2015, prior to the hour of 5:00 p.m.

CT Corporation System
208 S. LaSalle Street, Suite 814
Chicago, IL 60604
(Registered Agent for Equity Lifestyle)

Walter B. Jaccard
Vice President-Legal
Equity LifeStyle Properties, Inc.
Two North Riverside Plaza, Suite 800
Chicago, IL 60606



Sammy David