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MAR 15 2004
STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

KAREN & ANTHONY ROTI, et al,)	
)	
Complainants,)	
)	
v.)	PCB 99-19
)	(Enforcement - Noise - Citizens)
LTD COMMODITIES,)	
)	
Respondent,)	

LTD COMMODITIES' MOTION TO SUPPLEMENT RECORD

Respondent, LTD Commodities, by its attorneys, Baizer & Kolar, P.C., moves the Illinois Pollution Control Board ("PCB") to supplement the administrative record in this matter with evidence of the sale of Complainant Paul Rosenstock's house. In support of this motion, LTD states as follows:

Sale of Paul Rosenstock House

1. On March 9, 2004, LTD's attorney (Joseph E. Kolar) learned that complainant Paul Rosenstock sold his house last September. Mr. Rosenstock paid about \$550,000 for his house in 1996. (Tr. 593). He sold the house on September 29, 2003, for \$885,000. A copy of the transfer declaration for the sale of his house is attached hereto as exhibit A.

Complaint

2. In paragraph 8 of their complaint, the Complainants alleged that LTD's trucking operation "depresses the value" of their property. At the hearing, LTD presented the testimony of appraiser Kevin Byrne to demonstrate that this allegation was without merit. (Tr. 1268).

Section 33(c) Factors

3. As the PCB is aware, in “making its orders and determinations,” the PCB must consider the factors found at section 33(c) of the Environmental Protection Act. These factors are relevant to the issue of whether LTD is a noise nuisance and an appropriate remedy.

4. One section 33(c) factor involves the “character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people.” Clearly, the fact that Mr. Rosenstock could sell his home for about \$335,000 more than he paid for the property is relevant to many issues in this case, including the degree of injury to his property.

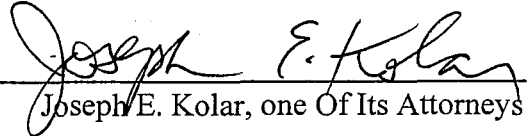
Motion To Reconsider

5. On August 28, 2003, LTD filed its motion for reconsideration, modification and stay. There was some delay in ruling on this motion due to the fact Complainants’ attorney, Steven Kaiser, withdrew as attorney of record. Obviously, LTD could not present this evidence regarding Mr. Rosenstock’s house because the sale occurred on September 29, 2003. LTD did not learn of the sale until mail sent to Mr. Rosenstock (after Mr. Kaiser withdrew from this case) by Mr. Kolar was returned because the forwarding order had expired.

6. The information regarding the sale of Mr. Rosenstock’s house should be part of the PCB administrative record so that the appellate court has current information regarding the status of the Complainants’ properties. Moreover, the sale negates the allegation by Complainants’ that LTD’s trucking operation depreciates the value of their property.

WHEREFORE, LTD respectfully requests that the PCB grant this motion and include with the administrative record filed with the appellate court the transfer declaration from the sale of Paul Rosenstock's house.

LTD Commodities

By 
Joseph E. Kolar, one Of Its Attorneys

ATTORNEYS FOR RESPONDENT

BAIZER & KOLAR, P.C.

513 Central Avenue, 5th Floor

Highland Park, IL 60035

847-433-6677

Fax: 847-433-6735

CERTIFICATE OF SERVICE

The undersigned states that on March 12, 2004, he served by Federal Express for delivery on Monday, March 15, 2004, the original and nine copies of the foregoing LTD COMMODITIES' MOTION TO SUPPLEMENT RECORD upon the Illinois Pollution Control Board at the following address:

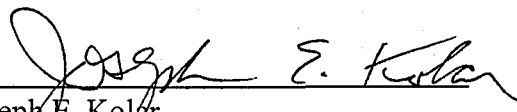
Ms. Dorothy M. Gunn
Clerk of the Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

A copy of LTD's motion was also mailed to the following Complainants at the following addresses before 5:00 p.m. on March 12, 2004:

Karen & Anthony Roti
1591 W. Wedgewood Drive
Lake Forest, IL 60045

Leslie & Henry Weber
1481 W. Wedgewood Drive
Lake Forest, IL 60045

A copy of LTD's motion was not mailed to Paul Rosenstock because LTD's attorney does not have a current address for Mr. Rosenstock.



Joseph E. Kolar



PTAX-203

Illinois Real Estate Transfer Declaration

Please read the instructions before completing this form. This form can be completed electronically at www.revenue.state.il.us/retd.

Step 1: Identify the property and sale information.

- 1 1541 Wedgewood Dr.
Street address of property (or #11 address, if available)
Lake Forest
City or village West Deerfield
Township
- 2 Write the total number of parcels to be transferred. 1
- 3 Write the parcel identifying numbers and lot sizes or acreage.
Parcel identifying number Lot size or acreage
a 16-18-105-007 257x232'
b _____
c _____
d _____
Write additional parcel identifiers and lot sizes or acreage in Step 3.
- 4 Date of deed/trust document: 9 / 29 / 03
Month Year
- 5 Type of deed/trust document* (Mark with an "X"):
☒ Warranty deed
☐ Quit claim deed ☐ Executor deed ☐ Trustee deed
Other (specify): _____
- 6 ☒ Yes ☐ No Will the property be the buyer's principal residence?
- 7 ☒ Yes ☐ No Was the property advertised for sale or sold using a real estate agent?*
- 8 Identify the property's current and intended primary use.
Current Intended (Mark only one item per column with an "X")
- | | | | |
|---|-------------------------------------|-------------------------------------|---|
| a | <input type="checkbox"/> | <input type="checkbox"/> | Vacant land/lot |
| b | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Residence (single-family, condominium, townhome, or duplex) |
| c | <input type="checkbox"/> | <input type="checkbox"/> | Mobile home residence |
| d | <input type="checkbox"/> | <input type="checkbox"/> | Apartment building (8 units or less) No. of units: _____ |
| e | <input type="checkbox"/> | <input type="checkbox"/> | Apartment building (over 8 units) No. of units: _____ |
| f | <input type="checkbox"/> | <input type="checkbox"/> | Office |
| g | <input type="checkbox"/> | <input type="checkbox"/> | Retail establishment |
| h | <input type="checkbox"/> | <input type="checkbox"/> | Commercial building (specify)*: _____ |
| i | <input type="checkbox"/> | <input type="checkbox"/> | Industrial building |
| j | <input type="checkbox"/> | <input type="checkbox"/> | Farm |
| k | <input type="checkbox"/> | <input type="checkbox"/> | Other (specify)*: _____ |

Do not write in this area.
This space is reserved for the County Recorder's Office use. *John*

County: 5415235

Date: FILED FOR RECORD BY:
MARY ELLEN VANDERVENTER
LAKE COUNTY, IL RECORDER
10/27/2003 - 11:25:36 A.M.
RECEIPT #: 122775
DRAWER #: 21

Doc. No.: _____

Vol.: _____

Page: 303413 341

Received by: RECEIVED ILR

- 9 Identify any significant physical changes in the property since January 1 of the previous year and write the date of the change.
(Mark with an "X")
Demolition/damage _____ Additions _____ Major remodeling _____
New construction _____ Other (specify): _____
Date of significant change*: _____ / _____ / _____
Month Year
- 10 Identify only the items that apply to this sale. (Mark with an "X.")
- | | | |
|---|--------------------------|---|
| a | <input type="checkbox"/> | Fulfillment of installment contract — year contract initiated*: _____ |
| b | <input type="checkbox"/> | Sale between related individuals or corporate affiliates |
| c | <input type="checkbox"/> | Transfer of less than 100 percent interest* |
| d | <input type="checkbox"/> | Court-ordered sale* |
| e | <input type="checkbox"/> | Sale in lieu of foreclosure |
| f | <input type="checkbox"/> | Condemnation |
| g | <input type="checkbox"/> | Auction sale |
| h | <input type="checkbox"/> | Seller/buyer is a relocation company |
| i | <input type="checkbox"/> | Seller/buyer is a financial institution* or government agency |
| j | <input type="checkbox"/> | Buyer is a real estate investment trust |
| k | <input type="checkbox"/> | Buyer is a pension fund |
| l | <input type="checkbox"/> | Buyer is an adjacent property owner |
| m | <input type="checkbox"/> | Buyer is exercising an option to purchase* |
| n | <input type="checkbox"/> | Trade of property (simultaneous)* |
| o | <input type="checkbox"/> | Sale-leaseback |
| p | <input type="checkbox"/> | Other (specify)*: _____ |



Step 2: Calculate the amount of transfer tax due.

Note: Round Lines 11 through 17 to the next highest whole dollar. If the amount on Line 11 is over \$1 million and the property's current use on Line 8 above is marked "a," "f," "g," "h," "i," or "k," complete Form PTAX-203-A, Illinois Real Estate Transfer Declaration Supplemental Form A.

- | | | | |
|-----|--|-----|--|
| 11 | Full actual consideration* | 11 | \$ 885,000 |
| 12a | Amount of personal property included in the purchase* | 12a | \$ 0 |
| 12b | Was the value of a mobile home included on Lines 11 and 12a? | 12b | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| 13 | Subtract Line 12a from Line 11. This is the net consideration for real property. | 13 | \$ 885,000 |
| 14 | Amount for other real property transferred to the seller (in a simultaneous exchange) as part of the full actual consideration on Line 11* | 14 | \$ 0 |
| 15 | Outstanding mortgage amount to which the transferred real property remains subject * | 15 | \$ 0 |
| 16 | If this transfer is exempt, use an "X" to identify the provision.* | 16 | <input type="checkbox"/> b <input type="checkbox"/> k <input type="checkbox"/> m |
| 17 | Subtract Lines 14 and 15 from Line 13. This is the net consideration subject to transfer tax. | 17 | \$ 885,000 |
| 18 | Divide Line 17 by 500. Round the result to the next highest whole number (e.g., 61,002 rounds to 62). | 18 | 1770 |
| 19 | Illinois tax stamps — multiply Line 18 by 0.50. | 19 | \$ 885.00 |
| 20 | County tax stamps — multiply Line 18 by 0.25. | 20 | \$ 442.50 |
| 21 | Add Lines 19 and 20. This is the total amount of transfer tax due. | 21 | \$ 1,327.50 |

* See Instructions.

PTAX-203 (R-7/00)

ID:INT

This form is authorized in accordance with 25 ILCS 200/31-1 of seq. Disclosure of this information is REQUIRED. This form has been approved by the Forms Management Center. IL-482-0227

Step 3: Write the legal description from the deed. Write, type (minimum 10-point font required), or attach the legal description from the deed. If you prefer, submit an 8 1/2" x 11" copy of the extended legal description with this form. You may also use the space below to write additional parcel identifiers and lots sizes or acreage from Step 1, Line 3.

5415235

Step 4: Complete the requested information.

The buyer and seller (or their agents) hereby verify that to the best of their knowledge and belief, the full actual consideration and facts stated in this declaration are true and correct. If this transaction involves any real estate located in Cook County, the buyer and seller (or their agents) hereby verify that to the best of their knowledge, the name of the buyer shown on the deed or assignment of beneficial interest in a land trust is either a natural person, an Illinois corporation or foreign corporation authorized to do business or acquire and hold title to real estate in Illinois, a partnership authorized to do business or acquire and hold title to real estate in Illinois, or other entity recognized as a person and authorized to do business or acquire and hold title to real estate under the laws of the State of Illinois. Any person who willfully falsifies or omits any information required in this declaration shall be guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses. Any person who knowingly submits a false statement concerning the identity of a grantee shall be guilty of a Class C misdemeanor for the first offense and of a Class A misdemeanor for subsequent offenses.

Seller Information (Please print.)

LaSalle National Trust

Seller's or trustee's name

924 Leonard Wood West

Street address (after sale)

Seller's or agent's signature

10-032684-09

Seller's trust number (if applicable)

Highwood

City

IL 60040

State ZIP

(312) 656-6917

Seller's daytime phone

Buyer Information (Please print.)

Jai Jung Nho

Buyer's or trustee's name

1541 Wedgewood Dr.

Street address (after sale)

Buyer's or agent's signature

Buyer's trust number (if applicable)

Lake Forest

City

IL 60045

State ZIP

(847) 234-8275

Buyer's daytime phone

Mail tax bill to:

Jai Jung Nho

Name or company

1541 Wedgewood Dr.

Street address

Lake Forest

City

IL 60045

State ZIP

Preparer Information (Please print.)

Michael W. Pincot

Preparer's and company's name

960 Rand Rd. Suite #210

Street address

Preparer's signature

mpincot@sboglobal.net

Preparer's e-mail address (if available)

Preparer's file number (if applicable)

Des Plaines,

City

IL 60035

State ZIP

(847) 635-7435

Preparer's daytime phone

Identify any required documents submitted with this form. (Mark with an "X.")

☒ Extended legal description Form PTAX-203-A
☐ Itemized list of personal property

To be completed by the Chief County Assessment Officer

1 County Township Class Cook-Minor Code 1 Code 2

2 Board of Review's final assessed value for the assessment year prior to the year of sale.

Land _____
 Buildings _____
 Total _____

3 Year prior to sale _____

4 Does the sale involve a mobile home assessed as real estate? Yes No

5 Comments

To be completed by the Illinois Department of Revenue

Full consideration

Adjusted consideration

Tab number

5415235

LEGAL DESCRIPTION

LOT 19 IN OAK KNOLL SUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER (¼) OF SECTION 18, TOWNSHIP 43 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 13, 1983 AS DOCUMENT 2237940, IN LAKE COUNTY, ILLINOIS.