

**Marek Kruk, Complainant v. New Trier High School, Respondent
PCB 20-10 (Citizens Enforcement - Noise)**

Complainant's motion to oppose respondent's motion in limine

On 12/09/2022, the respondent filed a motion to bar any and all expert reports containing sound measurements prepared by the very experts they hired.

In their motion in limine, the district is delaying progress and causing confusion in their misinterpretation of the board rulings and current status of this case.

The district appears to be disregarding the initial board ruling to accept the complaint for a hearing based on evidence that was submitted with the original complaint, see Exhibit 3 Shiner dated 08/15/2018 attached.

Furthermore, see Kruk Response to respondent's requests to admit to complainant: "Multiple reports prepared by Shiner Acoustics showed noise measurements above allowable limits as taken at 124 Woodland Ave. See Exhibit 1 Shiner - Shiner Acoustics report dated 07/15/2019 which was not disclosed by the district until January 2022 showed measurements and procedures for the testing done on 07/12/2019. This report shows numeric measurements of noise emissions taken at the Kruk property in adherence to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

More specifically, per this report, (Exhibit 1 Shiner) sound level readings were conducted with the microphone "held at an approximate height of 4-1/2 ft above the ground." Section 910.105 for 35 Illinois Administrative Code states to set up microphone "to a height between 3 feet 8 inches (1.12 m) and 4 feet 10 inches (1.47 m) above ground." This report showed measurements exceeded Illinois daytime limits in 5 of 9 octaves, see Table 1 of Exhibit 1 Shiner. Furthermore, the district received this report (Exhibit 1 Shiner) in July 2019 as yet another confirmation of noncompliance. Subsequently, the district denied any violation of any standards set by the Pollution Control Board, the Illinois Administrative code, in their October 2019 response to the complaint Kruk filed in August of 2019.

Also, see Exhibit 2 Shiner and Exhibit 3 Shiner - 12/20/2019 and 08/15/2018 Shiner Acoustics reports showing noise measurements above allowable limits, respectively. “

The above mentioned reports contain data and expert statements that confirm the noncompliance. These reports also confirm that the district was advised by the sound experts they hired that they operated some equipment above allowable limits. The district acknowledged in 2018 that they continued operating noncompliant equipment and then denied it in their official response to the formal complaint that was filed in August of 2019.

In the most recent answers to Kruk’s interrogatories (submitted on 12/16/22), the district stated that, “the School District made remedial efforts after Mr. Kruk’s complaints until noise measurements evidenced compliance with noise emissions levels” which admits to the fact that the equipment was found noncompliant with noise emissions levels, as stated in their expert reports.

To this date, the district has not produced numeric testing of noise emissions below the standards at the Kruk property which conforms to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection. However, multiple reports, including Exhibit 1 Shiner and Exhibit 3 Shiner (also submitted with Kruk response to Respondent's request for production of documents to complainant), conform to above said procedures and contain procedures, data, and expert opinions evidencing the noncompliance, and are vital evidence, thus they must not be barred from this case.

Thank you,

Marek Kruk

12/23/2022