

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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|-------------------------------------|---|------------------------------|
| PAUL CHRISTIAN PRATAPAS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | Case No. PCB 2023-069 |
| |) | |
| EVERCLEAN CAR WASH and |) | |
| WOODRIDGE POLICE DEPARTMENT, |) | |
| |) | |
| Respondents. |) | |

NOTICE OF ELECTRONIC FILING

To: Paul Christian Pratapas, 1330 E. Chicago Avenue, Naperville, Illinois 60540.

PLEASE TAKE NOTICE that on February 3, 2023, I electronically filed with the Office of the Clerk of the Pollution Control Board an Entry of Appearance and the Answer to Complaint of Respondent the Village of Woodridge, an Illinois home rule municipality, incorrectly named herein as "Woodridge Police Department," a copy of which is herewith served upon you.

Respectfully submitted,

By: /s/Eric G. Patt
Attorney for the Village of Woodridge,
an Illinois home rule municipality

Dated: February 3, 2023

Eric G. Patt (ARDC#6203622)
Robbins DiMonte, Ltd.
Attorneys for the Village of Woodridge
180 North LaSalle Street, Suite 3300
Chicago IL 60601
312-782-9000
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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a true copy of the foregoing Entry of Appearance and the Answer to Complaint of Respondent the Village of Woodridge, an Illinois home rule municipality, incorrectly named herein as “Woodridge Police Department,” was filed electronically on February 3, 2023 with the following:

Don Brown
Clerk of the Illinois Pollution Control Board
60 East Van Buren Street, Suite 630
Chicago, Illinois 60605

and that true copies were mailed by First Class Mail, postage prepaid, on February 3, 2023, to the parties listed above.

/s/Eric G. Patt
Attorney for the Village of Woodridge,
an Illinois home rule municipality

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ENTRY OF APPEARANCE

NOW COMES the law firm of ROBBINS DIMONTE, LTD., and hereby enters its appearance on behalf of the Respondent, THE VILLAGE OF WOODRIDGE, an Illinois home rule municipality, incorrectly named herein as "Woodridge Police Department," in the above-captioned cause.

THE VILLAGE OF WOODRIDGE, an
Illinois home rule municipality

By: /s/Eric G. Patt
Robbins DiMonte, Ltd.

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PAUL CHRISTIAN PRATAPAS,)
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 Complainant,)
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 v.) **Case No. PCB 2023-069**
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 EVERCLEAN CAR WASH and)
 WOODRIDGE POLICE DEPARTMENT,)
)
 Respondents.)

**ANSWER OF VILLAGE OF WOODRIDGE TO
COMPLAINANT'S COMPLAINT**

NOW COME one of the Respondents, THE VILLAGE OF WOODRIDGE, an Illinois home rule municipality, incorrectly named herein as "Woodridge Police Department" ("Woodridge"), by and through its attorneys, Robbins DiMonte, Ltd., and answer the Complainant's Complaint as follows:

1. Your Contact Information: Paul Christian Pratapas, 1330 E. Chicago Avenue, Naperville, DuPage, Illinois, (630)210-1637.

RESPONSE: Woodridge admits that Paul Christian Pratapas is the complainant and that he has reported his address and phone number as 1330 E. Chicago Avenue, Naperville, DuPage, Illinois, (630)210-1637.

2. Name and address of respondents: Everclean Car Wash, Thomas Kim, 6804 IL-53, Woodridge, IL (847)833-7058; Woodridge Police Department, Chief Brian Cunningham, Deputy Chief Ken Ostarello, 1 Plaza Drive, Woodridge, IL 60517, (480)436-0041.

RESPONSE: Woodridge admits that Everclean Car Wash is located at the alleged address. Woodridge admits that the alleged address for the Woodridge Police Department is correct. Woodridge denies the allegation that its phone number is (480)436-0041.

3. 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: Construction of an automatic Car Wash by Thomas Kim CEO of Everclean Carwash.

RESPONSE: Woodridge denies the allegations of Paragraph 4, and each of them.

4. List specific sections of the Environmental Protection Act, Board regulations, Board order, or permit that you allege have been or are being violated: 415 ILCS 5.12(a), and 415 ILCS 5/12(d).

RESPONSE: The statements in Paragraph 4 are legal conclusions to which a response from Respondents is neither necessary nor appropriate. To the extent an answer is appropriate, Woodridge denies the allegations in Paragraph 4, and each of them.

5. 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: Water. Complainant was driving South on IL RT53 when he noticed a hose from a water pump extending from the Everclean build site onto IL RT53. Upon closer inspection the water was laden with sediment and in violation. Within moments of looking and taking pictures, the excavator operator walked across the site and directly in front of complainant who was off site and standing in the curb area of IL RT53. The operator began making denials saying the hose was allowed to be directed onto IL RT53 and that the water was clean. He then began trying to intimidate complainant with threats of calling the police on complainant and demanding to know who I was and what I was doing. The threats continued and were of concern because the contact began by the operator leaving his vehicle, walking all the way across the site and then offsite onto the public road to intimidate complainant. Given the number of similar incidents occurring complainant called the Woodridge Police to discuss the highly confident polluters attempts to make a false report of an offense against him. Complainant left site briefly and returned to find the officer pictured in the photographic evidence section speaking with the excavator operator who was smiling. The officer then told me :I have been doing this for 20 years” “People call the police” and nothing within the area of a crime has occurred. He told me what the person violating several laws wanted him to tell me.

RESPONSE: Woodridge denies the allegations of Paragraph 5, and each of them.

6. 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): May 17, 2022 and all photos/emails time/date stamped.

RESPONSE: Woodridge denies the allegations of Paragraph 6, and each of them.

7. 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 effects of sediment laden water on plant and animal life are widely known and accepted. Not having the support of the police during the ungodly number of citizen enforcement actions I have had to do only goes to show how imperative it is the ILEPA be stopped from issuing any new NPDES SWPPP permits and there be a review of all active sites.

RESPONSE: To the extent Complainant's allegation actually sets forth purported bad effects the alleged pollution created, Woodridge denies the allegations of Paragraph 7, and each of them. With respect to the remainder of Complainant's allegation herein, Woodridge is without knowledge or information sufficient to form a belief as to the truth of said allegations of Paragraph 7 and, therefore, denies the same.

8. Describe the relief that you seek from the Board: 1. Find that Respondent has violated The Act; 2. Assess a maximum civil penalty; 3. Independent investigation into the officer for the purposes of protecting civil liberties of Americans; 4. Complainant requests the Chief resign in the interest of the public; 5. An order prohibiting Everclean Car Wash from building additional sites without a Pollution Prevention Plan; 6. A board order explaining the role law enforcement has in enforcing environmental laws alongside Americans exercising their civil liberties; 7. A board order listing any and all laws subject to exemption after 20 years of being a police officer.

RESPONSE: The statements contained in Paragraph 8 are either inapplicable to Woodridge, legal conclusions to which a response from Woodridge is neither necessary nor appropriate, or nonsensical requests for which the Illinois Pollution Control Board cannot grant relief. Further, Woodridge is without knowledge or information sufficient to form a belief as to the nature of the relief sought by Complainant. To the extent an answer is appropriate, Woodridge denies this paragraph and denies that the Complainant is entitled to any relief from Woodridge.

9. 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 an unit of local government): No identical or substantially similar cases have been brought to The Board which I am aware of.

RESPONSE: Woodridge is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 9 and, therefore, denies same.

AFFIRMATIVE DEFENSES

Woodridge denies all allegations of alleged wrongdoing by Woodridge, and further denies all allegations which otherwise have not been expressly admitted in this Answer. In addition, Woodridge asserts the following affirmative defenses. Woodridge does not assume the burden of proof on these defenses where substantive law provides otherwise.

FIRST AFFIRMATIVE DEFENSE: FAILURE TO STATE A CLAIM

In the alternative, without admitting any of the Complaint's allegations that it has denied or otherwise contradicting its answers, and solely by way of affirmative and/or additional defense, Woodridge alleges as follows:

1. Complainant does not assert any facts demonstrating that Woodridge caused or threatened or allowed the discharge of any contaminants into the environment "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 the Illinois Environmental Protection Act. 415 ILCS 5/12(a).
2. Complainant does not assert any facts demonstrating that Woodridge deposited "any contaminants upon the land in such place and manner so as to create a water pollution hazard." 415 ILCS 5/12(d).

WHEREFORE, Woodridge asks that the Board enter an order denying Complainant any and all of the relief he seeks herein against Woodridge; and such other and further relief to which Woodridge is entitled.

ADDITIONAL AFFIRMATIVE DEFENSES

Woodridge reserves the right to add further additional defenses after receiving information from Complainant through discovery.

WHEREFORE, Respondent the Village of Woodridge, incorrectly named herein as “Woodridge Police Department,” respectfully requests that the Board enter an order in favor of Woodridge, and for any such other relief as the Board deems appropriate and just.

Respectfully submitted,

By: /s/Eric G. Patt
Attorney for the Village of Woodridge,
an Illinois home rule municipality

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