

**THE ILLINOIS POLLUTION CONTROL BOARD
PCB 23-133**

Anna Andrushko, Complainant vs Thoms Egan, Respondent

COMPLAINANT'S REQUEST FOR SUMMARY JUDGEMENT

Now comes Complaint, Anna Andrushko, self-represented, requests the Board grant Summary Judgement in Complainant's favor on the claim of noise pollution.

The request for Summary Judgment comes following the Respondent's renewed Motion to Strike certain portions of the Complainant's claim and in light of the Board's prior denial of the Respondent's Motion for Summary Judgment, the underlying dispute of concerns due to excessive and unreasonable noise emanating from the Respondent's property due to dog barking.

On February 20, 2025, the Board denied the Respondent's Motion for Summary Judgment. In that prior order, the Board found that genuine issues of material fact remained; frequency, duration, intensity of the dog barking, the reasonableness of the noise, potential impacts on the Complainant's use and enjoyment of their property.

The Board found that Complainant had sufficiently alleged a violation of Section 24 of the Act (415 ILCS 5/24 (2022) and Section 900.102 of the Board's regulations (35 Ill. Adm. Code 900.102). The Board also found that Complainant had properly requested relief in the form of a noise abatement order.

The Board accepted the claim and Complainant's Response to Respondent's Summary Judgment filed January 15, 2025 provided detailed facts outlining the entire case with meticulous details for trial. The Board found that there is a genuine issue of material fact for Complainant's claim and directs the hearing officer to proceed to hearing.

Despite the prior denial of Respondent's Motion for Summary Judgment, the Respondent has now filed a renewed Motion to Strike portions of the Complainant's claim, arguing immaterial, irrelevant, and lack a proper foundation.

The Respondent has failed to present a legally valid defense or raise a genuine issue of material fact that would require a trial. Every argument by the Respondent is vague and without specifics for making their arguments to strike.

Complainant also argues that the Respondent's motion fails to meet the requirement of "specifics". Complainant cannot adequately respond to broad claims without what specifically is improper.

Complainant "presumably" contains information to be relevant to the noise pollution claim. The burden is on the Respondent to specifically demonstrate why a particular allegation(s) are not relevant or material to be the issue.

The allegations in the Complainants case are material because they describe the noise pollution, it's impacts. The Respondent has not pointed to which allegations are supposedly immaterial and why.

Regarding the "lack of foundation" claim is based on Complainant's observations, measurements, articles by experts, Nuisance Noise Report, Audios and Video, police reports, duration, impact, etc., and other information Complainant believes supports Complainant's claims of noise pollutions, specifically dog barking. The Respondent needs to specify which allegations they believe lack a proper foundation and what that alleged deficiency is.

In summary, the Respondent's Motion to Strike is overly broad and fails to identify with particularity the specific portions of the Complainant that are to be irrelevant, immaterial, or lacking in property foundation. The lack of specifics in the Respondent's Motion prejudices the Complainant's ability to formulate a meaningful response. The burden is on the Respondent to specifically demonstrate the deficiencies in the pleading. The Complainant respectfully request that the Board deny the Respondent's Motin to Strike.

In addition, Respondent requests answers to be stricken and states she has not hired an expert. Complainant argues that under the rules of the Illinois Pollution Control Board, there is no legal requirement that can be found that a complainant must hire an expert. The Complainant has a sufficient claim; it states a valid cause of action and provided enough information to allow the Respondent to prepare a defense. The noise complaint can be based on Complainant's personal observations, experiences, and any objective measure taken. It is not necessary for an "expert" to perceive and describe excessive noise levels or impacts on Complainant.

The Motion to strike would be on where the allegations in the complaint are legally insufficient, irrelevant, not if Complainant hired an expert as a witness or engineer to measure noise levels. The Respondent's motion to strike based on lack of a hired expert is without legal basis and should be denied.

The Complainant argues there is no genuine dispute of material fact and that Complainant is entitled to judgement as a matter of law.

The Complainant seeks summary judgment in a dog barking case for the following:

The Complainant has presented overwhelming and undisputed nuisance evidence (e.g., articles by experts, Nuisance Noise Report, audio and video recordings with dates and times, containing noise from dog barking and ambient noise, police reports, demonstrating duration and impact, that the barking is excessive, unreasonable, and substantially interferes with your use and enjoyment of your property.

Petitioner's Response to Respondent's Summary Judgment filed January 15, 2025 provided detailed meticulous facts outlining the entire case for trial.

Personal Knowledge: Based on my sensory experiences and observations, a Nuisance Noise Report was submitted to the Board and Respondent regarding specific instances, based on videos and photos detailed dates, location, time, and noise measurement findings.

Not Speculation Testimony: is based on Complainant's direct observations, not guesses or assumptions.

Not Hearsay: Complainant will testify to what was actually and personally heard, not what someone else informed the Complainant.

Recordings: Audio and Videos, Police Reports, Noise Measurements, Nuisance Noise Report, etc., has been provided to the Board and Respondent. Nuisance Report included date, time, location of the recording, device used to make the recording, and recordings of dog barking. Recordings have not been altered or tampered with; I will admit under oath.

The law in Illinois regarding nuisance from dog barking clearly supports Complainant's claim based on the undisputed facts.

In conclusion, the repetitive Motions are harassing causing unnecessary burden and delay. The Respondent is abusing the process and using procedural motions improperly. The Respondent's repeated motions are clearly frivolous and intended solely to cause delay and increase Complainant's burden.

In addition, delays in the Respondent ignoring Board Orders to install noise abatement measures, demonstrates lack of compliance and disregard for established findings or attempts to mitigate the noise issue. Original Order January 6, 2025, February 20, 2025, March 06, 2025, March 27, 2025, April 17, 2025. The original tarp measuring 5'10 privacy device was not installed, instead, a 3-foot vinyl lattice with holes/perforation was installed with no success. The Respondent then added and hung up a tarp privacy fence. The tarp does not start at the end of the fence, nearest to the Complaint's door, for unknown reasons. The Respondent's failure to comply with the order and supports a finding in the Complainant's favor and the imposition. Further evidence of failed attempts to resolve the issue shows the unreasonableness of the situation, demonstrates the on-going nature and severity of the problem.

Electronic Filing: Received, Clerk's Office 05/28/2025

On June 04, 2024 Complainant Interrogatories and Request for Reproduction to Respondent were not properly answered. November 18, 2024 Complainant submitted Motion to Compel Discovery. Respondent has not properly answered. May 07, 2025 Complainant pending a Revised Complainant's Interrogatories. Since the Respondent has refused thus far to allow the Complainant to introduce certain evidence or make certain arguments at trial, the Complainant asks the board for default judgment.

Supporting Evidence is as follows:

Frequency and Duration of Barking: See Complainants Nuisance Noise Report. Audio/Video Recordings with timestamps.

The Respondent has not presented any evidence to genuinely dispute the occurrence, frequency, or duration of these barking incidents.

Time of Day: The barking frequently occurs during which the Complainant and her cats throughout the day, trying to enjoy the outdoors and listening to the birds sing to enjoy the quiet.

Impact on Your Property Use and Enjoyment: As a direct result of the excessive barking, the Complainant has been unable to enjoy peace, work from home effectively, enjoy the yard, or have peaceful conversations in her home. The Respondent has not offered evidence to refute these direct impacts on the Petitioner's daily life.

Attempts to Resolve the Issue: The Respondent has not made good-faith attempts to resolve this issue with the Complainant. Several court orders have been ignored by the Respondent indicating a failure to adequately address the nuisance.

Lack of Legitimate Reason for Barking: The barking is not consistently triggered by legitimate reasons (e.g., intruders) but appears to be habitual and without clear cause.

The Respondent may argue that some barking is normal for dogs. However, the evidence presented by the Complainant demonstrates a level of barking that far exceeds what is considered normal or reasonable in a residential setting, occurring with excessive frequency, duration, and at unreasonable hours.

The undisputed facts regarding the frequency, duration, and timing of the barking (as detailed in the Nuisance Noise Report clearly establish a substantial interference with the Complainant's use and enjoyment of their property."

The persistent and often causeless nature of the barking, when the Complainant is using her yard and cats are enjoying the outdoors, with the Respondent's failure to take adequate

steps to mitigate the noise despite repeated requests, demonstrates the unreasonableness of the interference.

The evidence unequivocally shows that the barking originates from the Respondent's property and is directly caused by the Respondent's dog, thus satisfying the link between action and harm.

The Respondent has only offered denials, speculation, or arguments already rejected by the court.

If all else gets stricken, the actual videos/audio evidence is still sufficient to establish nuisance as a matter of law, that cannot be disputed, regardless of witness experts that the Respondent also is attempting to strike, and is not mandated by the Board.

Any remaining disputes raised by the Respondent are not about facts that would change the outcome of the case.

Despite the Respondent's procedural maneuvers, the core, legally significant facts of the excessive and unreasonable barking and its impact on the Complainant are undisputed, and under Illinois law, these facts entitle you to a judgment without the need for a full trial.

For non-compliance of both requests for unanswered interrogatories, Complaint request the Board for a Default Judgment.

For the foregoing reasons, the Complainant respectfully requests that the Board enter Summary Judgment or Default Judgment in Complainant's favor against Respondent on the claim of nuisance due to excessive dog barking, and grant the Complainant relief, including an injunction ordering the Respondent to abate the nuisance.

Respectfully submitted,

Anna Andrushko