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STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

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STATE OF ILLINOIS
Pollution Control Board

STATE OF ILLINOIS
POLLUTION CONTROL BOARD
100 W. RANDOLPH STREET, SUITE 11-500
CHICAGO, ILLINOIS 60601

MORRY GABEL, MYRA GABEL,)
DON FOREMAN, MARSHA FOREMAN,)
KEITH PINSONEAULT and TRACY PINSONEAULT.)

Complainant,)

vs.)

No. PCB 03-38

THE WEALSHIRE, INC., an)
ILLINOIS CORPORATION.)

Respondent.)

**ANSWER TO AMENDED FORMAL COMPLAINT BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

NOW COMES the Respondent THE WEALSHIRE, INC., by its attorneys Ash, Anos,
Freedman & Logan, L.L.C. and in response to the Amended Formal Complaint Before the Illinois
Pollution Control Board captioned above states:

1. Your Name, Address and Phone:

Morry Gabel, 20 Ashford Court, Lincolnshire, Illinois 60069, (847) 821-0447.

ANSWER: *Respondent makes no answer to paragraph number 1 since the paragraph is informational.*

2. Place where you can be contracted during normal business hours (if different from above):

Morry Gabel, c/o Chuhak & Tecson, P.C., Attn: Mitchell S. Feinberg, 30 S. Wacker Drive, Suite 2600, Chicago, Illinois 60606 (312) 855-4356.

ANSWER: *Respondent makes no answer to paragraph number 2 since the paragraph is informational.*

3. Name and Address of Respondent (Alleged Polluter):

The Wealshire, Inc., Attn: Arnold Goldberg, 150 Jamestown Lane, Lincolnshire, Illinois 60069, (847) 883-9000.

ANSWER: *Respondent admits the information as to the Respondent's address and denies the remaining legal conclusions.*

4. Describe the type of business or activity which you allege (believe) is causing pollution (for example, manufacturing company, grain, elevator, home repair shop):

The operating of Air Conditioner Unit(s) on the Respondents property (Northside) closest to Complainants properties. The business is an Alzheimer's care facility.

ANSWER: *Respondent admits that it has air conditioning condensing i.e., chiller units on its property, which is devoted to the care of Alzheimer patients and deny the remaining allegations of paragraph 4 on each of them.*

5. List specific Sections of the Environmental Protection Act and/or Board regulations which you allege (believe) are being violated:

**35 Ill. Adm. Code, Subtitle H, Chapter I, Section 900.106;
415 ILCS 5/24 (formally Ill. Rev. Stat. 1991, CH. 111 1/2, Par. 1024);
35 Ill. Adm. Code, Subtitle H, Chapter I, Section 900.102;
35 Ill. Adm. Code, Subtitle H, Chapter I, Section 901.102a
35 Ill. Adm. Code, Subtitle H, Chapter I, Section 901.102b;**

ANSWER: *Respondent finds no Section 900.106 in the published Regulations and denies the remaining allegations and legal conclusions of paragraph 5 and each of them.*

6. Describe the type of alleged pollution (for example air, odor, water, drinking water, sewer back-ups) and the location of the alleged pollution. Be as specific as possible in describing the pollution discharge or emission.

Noise is caused by the operation of the Air Conditioner Unit(s) located on the North side of the "The Wealshire" located at 150 Jamestown Lane, Lincolnshire, IL 60069. The noise pollution source is located in the proximity of the Complainant's properties and consists of commercial size unit(s). It consists of the motor, fan and accompanying noise from the unit(s).

ANSWER: *Respondent is informed that the condensing units complained of are sold with the manufacturer's specifications and met the local BOCA Code when installed and denies that the condensing units generate noise in violation of the statute or administrative rules.*

7. Describe the duration and frequency of the alleged pollution. Be as specific as possible about when you first noticed the alleged pollution, how frequently it occurs, and whether it is still continuing; include dates and/or times of day if available.

The noise pollution occurs year-round, almost constantly throughout the day and night (24 hours per day), with the greatest frequency, volume, and duration during the summer.

ANSWER: *The Complainants' prior allegation was that the "noise pollution occurs year-round". They have now amended that to coincide with the Answer previously filed by the Respondent which stated that the condensing units complained of are out of service for approximately 7 months during the fall, winter, and early spring. The units are enclosed by masonry walls 20' by 53' and 8-1/2' high. They are in closer proximity to the Respondent's healthcare facilities than to the Complainants' homes, but have resulted in no complaints by residents. At the time of installation, they met the Building Code requirements of the Village of Lincolnshire. Therefore, the Respondent denies the allegations and legal conclusions of Paragraph 7 and each of them.*

8. Describe any bad effects which you believe the alleged pollution has on human health, plant or animal life, or the environment.

The noise generated by the Air Conditioner Unit(s) operated by the Respondent has resulted in an unreasonable interference with the use and enjoyment of Complainants' properties, disturbance during the night of their sleep which endangers the physical and emotional health and well-being of the Complainants' and depresses the value of Complainants' properties.

ANSWER: *Respondent denies the allegations and legal conclusions in paragraph 8 and each of them.*

9. Describe the relief you wish the Board to grant (for example, an order that the Respondent stop polluting, perform a specific action, make a specific change in its operation, and/or pay a money penalty; the Board cannot order Respondent to pay you money damages, attorney's fees or any out-of-pocket expenses which you incur by filing this complaint.

Complainants' request that the Board enter an Order directing the Respondent to cease and desist from further violations of applicable statutes and regulations and more specifically relocate the Air Conditioner(s) to the opposite side of their building where there are commercial, not residential properties and/or vacant space. In the alternative, sound barriers or devices be employed that would affirmatively reduce all noise violations to levels not in violation or current laws. Complainants' request the Board to enter such further, or other, relief it deems appropriate under the circumstances.

ANSWER: *Respondent asks the Board to assess the situation and determine that no violations are occurring and enter an order denying relief to the Complainants.*

10. State whether you know if there is any court or other forum in which you are or anyone else is suing or complaining against this Respondent for the same alleged pollution discharge or emission.

None known to Complainants. Complainants met with Mr. Goldberg of Wealshire but no resolution of the noise pollution has been achieved.

ANSWER: *Respondent admits that there are no known other Complainants other than in this cause and admits that the Respondent's staff has met with the Plaintiffs but denies the legal conclusion that there is any noise pollution generated by the equipment identified by the Complainant's.*

11. CERTIFICATION (Optional but encouraged)

THE WEALSHIRE, INC., an Illinois Corporation


By: Ash, Anos, Freedman & Logan, L.L.C.

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