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OCT 23 2003

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

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.)

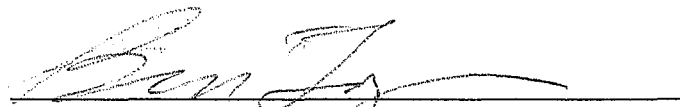
NOTICE OF FILING

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 West Randolph Street
Chicago, IL 60601

Mitchell S. Feinberg
Chuhak & Tecson, P.C.
30 South Wacker Drive
Suite 2600
Chicago, IL 60606

PLEASE TAKE NOTICE that on the 23rd day of October, 2003, there was filed with the Illinois Pollution Control Board Respondent's Reply In Support Of Motion For Stay, a copy of which is attached and herewith served upon you.

THE WEALSHIRE, INC.


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

Bruce T. Logan
Ash, Anos, Freedman & Logan, L.L.C.
77 West Washington Street
Chicago, IL 60602
312-346-1389
Attorneys for Respondent

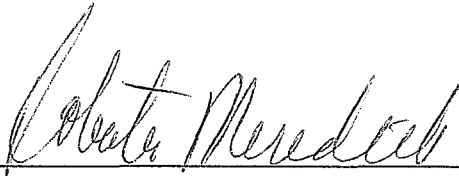
AFFIDAVIT OF SERVICE

The undersigned, being first duly sworn on oath, deposes and says that she served the above and foregoing Notice of Filing and Reply In Support Of Motion For Stay by mailing a copy to:


Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph Street
Chicago, IL 60601
FAX 312-814-3669

Mitchell S. Feinberg
Chuhak & Tecson, P.C.
30 South Wacker Drive
Suite 2600
Chicago, IL 60606
FAX 312-444-9027

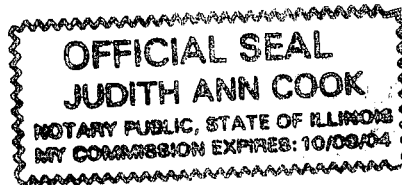
and depositing same in the U.S. Mail Chute at 77 West Washington Street, Chicago, Illinois 60602, at 5:00 P.M. on October 23, 2003, with proper postage prepaid and by faxing a copy to the numbers indicated above on October 23, 2003.



Subscribed and sworn to before me
this 23rd day of October, 2003



NOTARY PUBLIC



STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

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OCT 23 2003

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

STATE OF ILLINOIS
Pollution Control Board

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DON FOREMAN, MARSHA FOREMAN,)
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Complainant,)

vs.)

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THE WEALSHIRE, INC., an)
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Respondent.)

REPLY IN SUPPORT OF

MOTION FOR STAY

NOW COMES the Respondent, THE WEALSHIRE, INC., by its Attorneys, Ash, Anos, Freedman & Logan, L.L.C., and presents the following in support of its Motion for Stay:

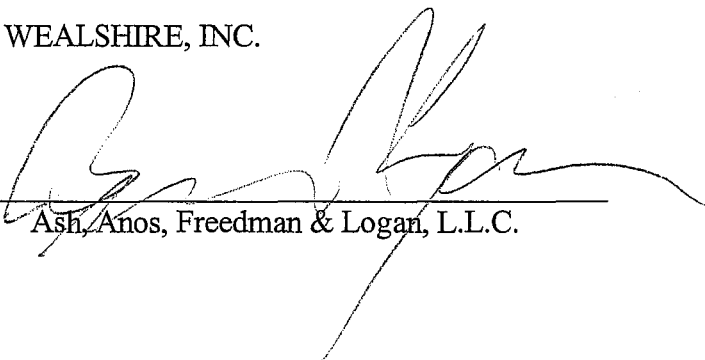
1. Attached hereto and incorporated herein is the Affidavit of Ralph Chapman, Operations Director for The Wealshire, Inc. It is Mr. Chapman's opinion that the air conditioning system's compressor fans cannot be safely operated once the system is winterized.

2. The Complainants' Response refers to a new report of Mr. Zak that apparently has not been provided to the Respondent. The Respondent has been provided with a December 31, 2002 report. That purports to measure the sound levels from the Complainants' porches, but **does not make any recommendations for modifications to the system**, except for "...constructing an

acoustic enclosure that is air tight, except for intake and exhaust silencers around the chiller.” As stated in Mr. Chapman’s Affidavit, the manufacturer does not allow the system to be enclosed and will void the warranty. This means the proposed modification by the Complainants is impossible to implement and the Respondent is acting responsibly with its modifications.

WHEREFORE, the Respondent, THE WEALSHIRE, INC., requests a stay to allow it to complete its modifications and that it be given an opportunity to conduct its own independent sound testing in order to prevent an unreasonable and arbitrary hardship upon the Respondent.

THE WEALSHIRE, INC.


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

Bruce T. Logan
Ash, Anos, Freedman & Logan, L.L.C.
77 West Washington Street
Chicago, IL 60602
312-346-1389
Attorneys for Respondent

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

Respondent.)

)

AFFIDAVIT OF RALPH CHAPMAN

NOW COMES RALPH CHAPMAN, being first duly sworn on oath, and deposes and says:

1. That if called upon in open Court to testify to the matters stated herein, I would be competent to so testify.

2. I am the Operations Director of The Wealshire, Inc. I have personal knowledge of the water based air conditioning system, and in the past months I have been personally involved in modifying the system.

3. In order to quiet the system, The Wealshire undertook an extensive program of automating the system that was previously run manually. This summer in working with O'Neill Engineered Systems, we installed jackets to quiet the equipment and we are currently in the process of

installing additional modifications, including sound absorption panels and a deflective shield. We hope to have this completed before the end of the month.

4. I have been informed that the Complainants' expert, Greg Zak, has stated that the fans for the compressor can be run even though the system has been winterized.

5. Neither myself nor anyone on my staff has ever run the fans with the system shut down. Based on my experience, it would take a modification to the electrical system of the air conditioning system in order to manually use the fans. It is my opinion that this poses an unnecessary electrical and fire hazard and could potentially damage the entire system. I am not able to recommend to the ownership that we start the compressor fans with the system shut down.


6. I personally contacted the manufacturer of the system concerning the possibility of fully enclosing the system based on the comment of Greg Zak. Both Trane and its recommended engineering firm, O'Neill Engineered Systems, stated that Trane would void the warranty and both recommended against any attempt to fully enclose the system. O'Neill Engineered Systems designed the sound absorption panels with the belief that the sound absorption panels will significantly improve the decibel level of the system.

Further Affiant sayeth not.


RALPH CHAPMAN

Subscribed and sworn to before me

Bruce T. Logan
Ash, Anos, Freedman & Logan, L.L.C. this 21 day of October, 2003.
77 West Washington Street
Chicago, IL 60602
312-346-1390
Attorneys for Respondent


NOTARY PUBLIC

