

ORIGINAL

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

RECEIVED  
CLERK'S OFFICE

FEB 25 2003

STATE OF ILLINOIS  
Pollution Control Board

**NOTE:** All items must be completed. If there is insufficient space to complete any item, additional sheets may be attached, specifying the number of the item you are completing. Once completed, you must file the original and nine copies with the Board.

AMENDED FORMAL COMPLAINT

BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD

Morry Gabel, Myra Gabel,  
Don Foreman, Marsha Foreman,  
Keith Pinsoneault and  
Tracy Pinsoneault

(Insert your name(s) on lines  
above),

Complainant,

v.

The Wealshire, Inc., and  
Illinois corporation

(Insert names of alleged polluter(s)  
on lines above),

Respondent.

PCB 03-38  
(For use by the Board)

1. Your Name, Address and Phone:

Morry Gabel

20 Ashford Court

Lincolnshire, Illinois 60069

Phone (847) 821-0447

2. Place where you can be contacted 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

Phone (312) 855-4356

3. Name and Address of Respondent (Alleged Polluter)

The Wealshire, Inc.

Attn: Arnold Goldberg

150 Jamestown Lane

Lincolnshire, Illinois 60069

Phone (847) 883-9000  
(if known)

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.

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 $\frac{1}{2}$ , 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

6. Describe the type of alleged pollution (for example air, odor, noise, 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 Wealshire" located at 150 Jamestown Lane, Lincolnshire, IL 60069. The noise pollution source is located in the proximity of the Complainants' properties and consists of commercial size unit(s). It consists of the motor, fan and accompanying noise from the unit(s).

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 in the Spring, Summer, and early Fall, and almost constantly throughout the day and night (24 hours/day), with the greatest frequency, volume, and duration during the summer, and especially on those days with the highest temperatures.

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.

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 devises be employed that would affirmatively reduce all noise violations to levels not in violation of current laws. Complainants' request the Board to enter such further, or other, relief it deems appropriate under the circumstances.

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.

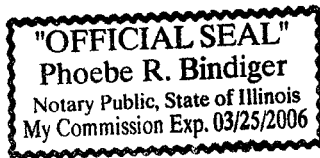
11. CERTIFICATION (Optional but encouraged)

I Morry Gabel having read the above do hereby swear and attest that I have read the foregoing and I have filled out the above form accurately and to the best of my knowledge.

*Morry Gabel*

Subscribed to and Sworn  
before me this 24<sup>th</sup> day  
of February, 2003.

*Phoebe R. Bindiger*  
Notary Public



My Commission Expires

3/25/06

ORIGINAL  
CERTIFICATE OF SERVICE

RECEIVED  
CLERK'S OFFICE

FEB 25 2003

STATE OF ILLINOIS  
Pollution Control Board

The undersigned, being first sworn, states that an original copy of the amended complaint and a copy of the notice of filing was mailed, or personally served, to the Respondent of this action at the below listed address on this date February 25, 2003 by: (Check appropriate line)

- Certified Mail (attach copy of receipt)
- Registered Mail (attach copy of receipt)
- Personal Service

RESPONDENT'S ADDRESS

NAME: Bruce T. Logan/Lawrence Freedman c/o Ash, Anos, Freedman & Logan, L.L.C.

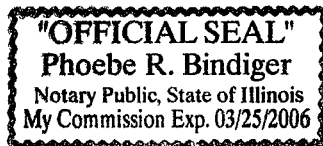
STREET: 77 West Washington Street - Suite 1211

CITY, STATE AND ZIP: Chicago, IL 60602

Mitchell D. Feenly  
Complainant(s)

SIGNED AND SWORN to before me  
this date February 25, 2003

Phoebe R. Bindiger  
Notary Public



**NOTE: THIS FORM MUST BE INCLUDED IN THE SERVICE TO RESPONDENT  
INFORMATION FOR RESPONDENT RECEIVING COMPLAINT**

The Board will not accept this complaint that has been served upon you if the case is determined to be either duplicitous or frivolous. Duplicitous means that a similar case is pending in another court or in another action before the Board. The response to question #10 in the complaint states the opinion of the Complainant(s) on this issue.

Neither can the Board accept the complaint if the action is frivolous. Frivolous means that the requested relief is beyond the Board's authority to grant. For example, the Board has the authority to order the Respondent(s) to cease and desist the polluting activity and order a fine after following certain procedures. The Board does not have the authority for example to grant monetary compensation to the Complainant for damage to health or property. Also, the Board cannot order the polluting activity to cease while the case is pending, except under special circumstances. The response to question #9 in the complaint states the opinion of the Complainant(s) on this issue.

If you believe this case is duplicitous or frivolous, please file a motion with the Board within two weeks from the date of service. The motion must state the basis for which the motion is made and a concise statement of the relief sought. Memoranda, affidavits, and any other relevant documents should accompany the motion. If more time than two weeks is necessary to gather supporting evidence, please indicate this within the two weeks and state your reasons as well as the amount of additional time needed. Upon good cause, the Board may grant an extension at its next Board meeting.

Ten (10) copies of the motion must be filed with the Clerk of the Board with proof of service. Service may be done either personally or by First Class United States mail. Mail service is presumed completed four days after mailing.

If no response is received by the Board within two weeks, the Board, at its discretion, may find that the complaint is not duplicitous or frivolous and may accept the case for hearing.

If you have any questions, please contact the Clerk's Office, at (312) 814-3629.