

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 WILLIAM CHARLES REAL ESTATE)
 INVESTMENT, L.L.C., an Illinois limited)
 liability company,)
)
 Respondent.)

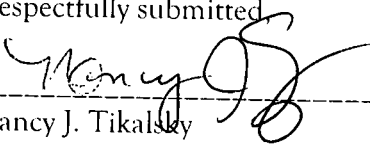
PCB No. 10 - 108
(Enforcement - Water)

NOTICE OF FILING

To: See Attached Service List.
(VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the Complainant's MOTION FOR LEAVE TO FILE A REPLY TO RESPONDENT'S RESPONSE TO COMPLAINANT'S MOTION TO STRIKE AND DISMISS RESPONDENT'S AFFIRMATIVE DEFENSE, a copy of which is herewith served upon you.

Respectfully submitted,



Nancy J. Tikalsky
Assistant Attorney General

Office of the Illinois Attorney General
Environmental Bureau
69 West Washington Street, Suite 1800
Chicago, Illinois 60602
(312) 814-8567

Date: December 17, 2010

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

v.

WILLIAM CHARLES REAL ESTATE INVESTMENT, L.L.C., an Illinois limited liability company,

Respondent.

PCB No. 10 - 108
(Enforcement - Water)

**COMPLAINANT'S MOTION FOR LEAVE TO FILE REPLY AND REPLY TO
RESPONDENT'S RESPONSE TO COMPLAINANT'S MOTION TO STRIKE
RESPONDENT'S AFFIRMATIVE DEFENSE**

NOW COMES COMPLAINANT, People of the State of Illinois, by LISA MADIGAN, Attorney General of the State of Illinois, pursuant Section 101.500(e) of the Illinois Pollution Control Board's Procedural Regulations, 35 Ill. Adm. Code 101.500(e), and hereby moves the Board to grant Complainant leave to file a Reply to Respondent's, WILLIAM CHARLES REAL ESTATE INVESTMENT, L.L.C., Response to Complainant's Motion to Strike Respondent's 'act of God' Affirmative Defense. In support thereof, Complainant states as follows:

I. BACKGROUND


On June 24, 2010, Complainant filed its Complaint for Civil Penalties. On October 15, 2010, Respondent filed its Amended Answer and Affirmative Defenses. On November 12, 2010, Complainant filed its Motion to Strike Respondent's 'act of God' Affirmative Defense ("Motion to Strike"). On November 30, 2010, Respondent filed its Response to Complainant's Motion to Strike its affirmative Defense ("Response").

II. BOARD'S PROCEDURAL RULES ON REPLIES TO MOTIONS

The Board's procedural rules do not provide the right to file a Reply except by Motion, and for the purpose of preventing material prejudice. Respondent has added both new and confusing factual assertions and caselaw interpretations not previously asserted in its 'act of God' affirmative defense. Complainant believes that these misrepresentations could result in material prejudice to a decision on Complainant's Motion to Strike Affirmative Defenses if Complainant is not allowed to reply to aforesaid factual assertions.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that that the Board grant it leave to file its Reply to Respondent's, WILLIAM CHARLES REAL ESTATE INVESTMENT, L.L.C., Response to Complainant's Motion to Strike Respondent's 'act of God' Affirmative Defense.

PEOPLE OF THE STATE OF ILLINOIS, LISA
MADIGAN
Attorney General of the State of Illinois

By: 
NANCY J. TIKALSKY
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 WILLIAM CHARLES REAL ESTATE)
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CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on December 17, 2010, 2010, I served true and correct copies of Complainant's MOTION FOR LEAVE TO FILE A REPLY TO RESPONDENT'S RESPONSE TO COMPLAINANT'S MOTION TO STRIKE AND DISMISS RESPONDENT'S AFFIRMATIVE DEFENSE, upon the persons and by the methods as follows:

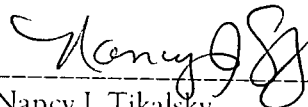
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[Personal Delivery]

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