

BEFORE THE POLLUTION CONTROL BOARD

SUSAN BRUCE,)
)
 Complainant,)
)
 v.)
)
 HIGHLAND HILLS SANITARY DISTRICT,)
)
 Respondent.)

No. 2015-199

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MAR 20 2015

STATE OF ILLINOIS
Pollution Control Board



ORIGINAL

APPEARANCE

Complainant, SUSAN BRUCE, by her attorneys, HUCK BOUMA PC, enters her appearance before the board.

Respectfully submitted,

HUCK BOUMA PC

Lawrence A. Stein

Lawrence A. Stein
HUCK BOUMA PC
 1755 South Naperville Road
 Wheaton, Illinois 60189
 Telephone (630) 221-1755
 Facsimile (630) 221-1756
 Attorney No. 6216903

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MAR 20 2015

STATE OF ILLINOIS
Pollution Control Board

CERTIFICATE OF MAILING

I, Linda Koster, state as follows under penalty of perjury this eighteenth day of March 2015:

1. I filed this *Appearance* by placing it in an envelope with proper postage prepaid and plainly addressed to State of Illinois, Clerk of the Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601.

2. I served this *Appearance* by placing accurate copies of it in an envelope with proper postage prepaid and plainly addressed to Joseph R. Podlewski, Jr., Esq., Heidi E. Hanson, Esq., Podlewski & Hanson P.C., 4721 Franklin Avenue, Suite 1500, Western Springs, Illinois 60558.

3. I deposited the envelopes in the United States mail at Wheaton, Illinois on March 18, 2015, before 4:30 p.m.

4. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.

A handwritten signature in cursive script, reading "Linda Koster", is written over a horizontal line.

RECEIVED
CLERK'S OFFICE
MAR 20 2015
STATE OF ILLINOIS
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD

SUSAN BRUCE,)	
)	
Complainant,)	
)	
v.)	No. 2015-139
)	
HIGHLAND HILLS SANITARY DISTRICT,)	
)	
Respondent.)	



ORIGINAL

PROOF OF SERVICE

I, LAWRENCE A. STEIN, state under penalty of perjury on this eighteenth day of March, 2015, as follows:

1. My name is Lawrence A. Stein. I am counsel for the complainant in this matter, competent to testify to the matters in this affidavit, an attorney authorized to practice law by the Supreme Court of Illinois, and have personal knowledge of the statements set forth in this affidavit.

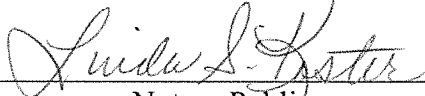
2. I served the *Notice to Respondent* and *Formal Complaint* in this matter by handing accurate copies of them to Alphonse Sarno, Jr., in person on March 17, 2015, at approximately 4:40 pm Chicago time, on or near the driveway of his house at 550 East 13th Place, in the village of Lombard, Illinois, and obtaining from him then his acknowledgment that his is in fact the president of the respondent.

3. The *Notice to Respondent* and *Formal Complaint* I handed to Mr. Sarno then were in the forms attached as exhibits A and B, respectively.



Lawrence A. Stein

SUBSCRIBED and SWORN to before
me this 18th day of March, 2015.



Notary Public



Lawrence A. Stein
HUCK BOUMA PC
1755 South Naperville Road
Wheaton, Illinois 60189
Telephone (630) 221-1755
Facsimile (630) 221-1756
Attorney No. 6216903
Email:
lstein@huckbouma.com

IN THE MATTER OF)
)
SUSAN M. BRUCE,)
Complainant,)
)
v.)
HIGHLAND HILLS SANITARY DISTRICT,)
)
Respondent.)

NOTICE TO RESPONDENT

NOTE: THIS STATEMENT MUST BE INCLUDED IN THE SERVICE OF THE FORMAL COMPLAINT ON THE RESPONDENT

INFORMATION FOR RESPONDENT RECEIVING FORMAL COMPLAINT

Please take notice that today I filed with the Clerk of the Illinois Pollution Control Board (Board) a formal complaint, a copy of which is served on you along with this notice. You may be required to attend a hearing on a date set by the Board.

Information about the formal complaint process before the Board is found in the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.*) and the Board’s procedural rules (35 Ill. Adm. Code 101 and 103). These can be accessed at the Board’s Web site (www.ipcb.state.il.us). The following is a summary of some of the most important points in the Act and the Board’s procedural rules. It is provided for general informational purposes only and does not constitute legal advice or substitute for the provisions of any statute, rule, or regulation:

Board Accepting Formal Complaint for Hearing; Motions

The Board will not accept this formal complaint for hearing if the Board finds that it is either “duplicative” or “frivolous” within the meaning of Section 31(d) of the Act (415 ILCS 5/31(d)) and Section 101.202 of the Board’s procedural rules (35 Ill. Adm. Code 101.202). “Duplicative” means that an identical or substantially similar case is already pending before the Board or in court. See 35 Ill. Adm. Code 103.212(a) and item 10 of the formal complaint.

“Frivolous” means that the formal complaint seeks relief that the Board does not have the authority to grant, or fails to state a cause of action upon which the Board can grant relief. For example, the Board has the authority to order a respondent to stop polluting and pay a civil penalty, to implement pollution abatement measures, or to perform a cleanup or reimburse cleanup costs. The Board does not have the authority,

however, to award attorney fees to a citizen complainant. See 35 Ill. Adm. Code 103.212(a) and items 5 and 9 of the formal complaint.

If you believe that this formal complaint is duplicative or frivolous, you may file a motion with the Board, within 30 days after the date you were served with the complaint, requesting that the Board not accept the complaint for hearing. The motion must state the facts supporting your belief that the complaint is duplicative or frivolous. Memoranda, affidavits, and any other relevant documents may accompany the motion. If you need more time than 30 days to file a motion alleging that the complaint is duplicative or frivolous, you must file a motion for an extension of time within 30 days after service of the complaint. A motion for an extension of time must state why you need more time and the amount of additional time you need. Timely filing a motion alleging that the complaint is duplicative or frivolous will stay the 60-day period for filing an answer to the complaint. See 35 Ill. Adm. Code 103.204, 103.212(b).

All motions filed with the Board's Clerk must include an original, nine copies, and proof of service on the other parties. Service may be made in person, by U.S. mail, or by messenger service. Mail service is presumed complete four days after mailing. See 35 Ill. Adm. Code 101.300(c), 101.302, 101.304.

If you do not respond to the Board within 30 days after the date on which the complaint was served on you, the Board may find that the complaint is not duplicative or frivolous and accept the case for hearing. The Board will then assign a hearing officer who will contact you to schedule times for telephone status conferences and for hearing. See 35 Ill. Adm. Code 103.212(a).

Answer to Complaint

You have the right to file an answer to this formal complaint within 60 days after you receive the complaint. If you timely file a motion alleging that the complaint is duplicative or frivolous, or a motion to strike, dismiss, or challenge the sufficiency of the complaint, then you may file an answer within 60 days after the Board rules on your motion. See 35 Ill. Adm. Code 101.506, 103.204(d), (e), 103.212(b).

The Board's procedural rules require the complainant to tell you as respondent that:

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney. 35 Ill. Adm. Code 103.204(f).

Necessity of an Attorney

Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. In addition, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, even if an individual is not an attorney, he or she is allowed to represent (1) himself or herself as an individual or (2) his or her unincorporated sole proprietorship. See 35 Ill. Adm. Code 101.400(a). Such an individual may nevertheless wish to have an attorney prepare an answer and any motions or briefs, and present a defense at hearing.

Costs

In defending against this formal complaint, you are responsible for your attorney fees, duplicating charges, travel expenses, witness fees, and any other costs that you or your attorney may incur. The Board requires no filing fee to file your answer or any other document with the Board. The Board will pay any hearing costs (e.g., hearing room rental, court reporting fees, hearing officer expenses).

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

CERTIFICATE OF MAILING

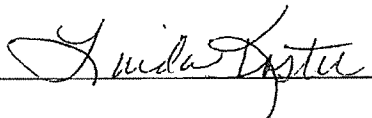
I, Linda Koster, state as follows under penalty of perjury this fifteenth day of January 2015:

1. I filed this *Notice to Respondent* by placing it in an envelope with proper postage prepaid and plainly addressed to State of Illinois, Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601.

2. I served this *Notice to Respondent* by placing accurate copies of it in an envelope with proper postage prepaid and by certified mail, return receipt requested, and plainly addressed to Highland Hills Sanitary District, 566 East 13th Place, Lombard, Illinois 60148.

3. I deposited the envelopes in the United States mail at Wheaton, Illinois on January 15, 2015, before 4:30 p.m.

4. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.



State of Illinois
Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601
<http://www.ipcb.state.il.us/>

FORMAL COMPLAINT

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In The Matter Of:)
)
Susan M. Bruce,)
)
(Insert your name(s) in the space above))
Complainant(s),)
)
v.) PCB 20 -
HIGHLAND HILLS SANITARY DISTRICT,) (For Board use only)
)
)
(Insert name(s) of alleged polluter(s)))
Respondent(s))

Note: If you do not use this formal complaint form and instead draft and type your own, it must contain all of the information requested by this form. All items must be completed. If there is insufficient space to complete any item, you may attach additional sheets, specifying the number of the item you are completing. Once completed, you must file the original and nine copies of the formal complaint, notice to respondent, and certificate of service with the Clerk of the Board at the above address.

5. List specific sections of the Environmental Protection Act, Board regulations, Board order, or permit that you allege have been or are being violated .

Paragraph 601(a) and 602(b) of the Rules of the Board in that there
Is backup from sewers depositing human waste in the yard and
House. The opinion and order of the Pollution Control Board dated
November 1, 1979 in case no. PCB 79-72, Ramon Traviseo v.
Highland Hills Sanitary District.

6. Describe the type of pollution that you allege (e.g., air, odor, noise, water, sewer back-ups, hazardous waste) and the location of the alleged pollution. Be as specific as you reasonably can in describing the alleged pollution

Sewer back-ups from all plumbing fixtures with a drain, including
floor drains, toilets, bathtubs, showers, and even elevated sinks.
Sewage eruptions from respondent's equipment or structure in the
backyard, that floods the backyard and even infiltrates into the
house.

7. Describe the duration and frequency of the alleged pollution. Be as specific as you reasonably can about when you first noticed the alleged pollution, how frequently it occurs, and whether it is still continuing (include seasons of the year, dates, and times of day if known)

April 18, 2013: Sewage forcibly entered the house through every
drain in a geyser like fashion, and also through the respondent's
equipment in the complainant's backyard, flooding the backyard
above the ground level of the house. Additional backups twice in
May 2013, July 24, 2013, August 3 and 6, 2013, and three times
in 2010.

8. Describe any bad effects that you believe the alleged pollution has or has had on human health, on plant or animal life, on the environment, on the enjoyment of life or property, or on any lawful business or activity

The polluting renders the home unhealthy, unpleasant,
uninhabitable, and destroys complainant's property.

9. Describe the relief that you seek from the Board (e.g., an order that the respondent stop polluting, take pollution abatement measures, perform a cleanup, reimburse cleanup costs, change its operation, or pay a civil penalty (note that the Board cannot order the respondent to pay your attorney fees or any out-of-pocket expenses that you incur by pursuing an enforcement action))

All.

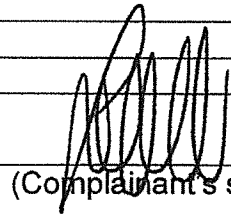
10. Identify any identical or substantially similar case you know of that is already pending before the Board or in another forum against this respondent for the same alleged pollution (note that you need not include any complaints made to the Illinois Environmental Protection Agency or any unit of local government)

Case No. PCB 79-72, *Ramon Traviseo v. Highland Hills Sanitary District*

11. State whether you are representing (a) yourself as an individual or (b) your unincorporated sole proprietorship. Also, state whether you are an attorney and, if so, whether you are licensed and registered to practice law in Illinois. (Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. Also, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, an individual who is not an attorney is allowed to represent (a) himself or herself as an individual or (b) his or her unincorporated sole proprietorship, though the individual may prefer having attorney representation.)

The complainant, an individual, is being represented by the under-
signed, who is licensed to practice law in Illinois.

12.



Lawrence A. Stein, her Attorney

(Complainant's signature)

HUCK BOUMA PC
1755 South Naperville Road, Wheaton, Illinois 60189
(630) 221-1755
lstein@huckbouma.com

CERTIFICATION
(optional but encouraged)

I, _____, on oath or affirmation,
state that I have read the foregoing and that it is accurate to the best of my knowledge.

(Complainant's signature)

Subscribed to and sworn before me

this _____ day

of _____, 20__.

Notary Public

My commission expires: _____

CERTIFICATE OF MAILING

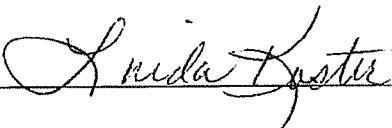
I, Linda Koster, state as follows under penalty of perjury this fifteenth day of January 2015:

1. I filed this *Formal Complaint* by placing it in an envelope with proper postage prepaid and plainly addressed to State of Illinois, Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601.

2. I served this *Formal Complaint* by placing accurate copies of it in an envelope with proper postage prepaid and by certified mail, return receipt requested, and plainly addressed to Highland Hills Sanitary District, 566 East 13th Place, Lombard, Illinois 60148.

3. I deposited the envelopes in the United States mail at Wheaton, Illinois on January 15, 2015, before 4:30 p.m.

4. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.



CERTIFICATE OF MAILING

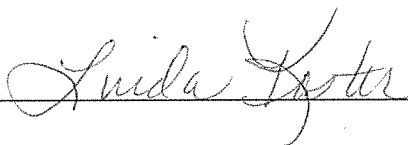
I, Linda Koster, state as follows under penalty of perjury this eighteenth day of March 2015:

1. I filed this *Proof of Service* by placing it in an envelope with proper postage prepaid and plainly addressed to State of Illinois, Clerk of the Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601.

2. I served this *Proof of Service* by placing accurate copies of it in an envelope with proper postage prepaid and by certified mail, return receipt requested, and plainly addressed to Joseph R. Podlewski, Jr., Esq., Heidi E. Hanson, Esq., Podlewski & Hanson P.C., 4721 Franklin Avenue, Suite 1500, Western Springs, Illinois 60558.

3. I deposited the envelopes in the United States mail at Wheaton, Illinois on March 18, 2015, before 4:30 p.m.

4. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.



22262-1

BEFORE THE POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE
MAR 20 2015

STATE OF ILLINOIS
Pollution Control Board

SUSAN BRUCE,)	
)	
Complainant,)	
)	
v.)	No. 2015-139
)	
HIGHLAND HILLS SANITARY DISTRICT,)	
)	
Respondent.)	

 ORIGINAL

AMENDED PROOF OF SERVICE

I, LAWRENCE A. STEIN, certify that I served the notice and formal complaint on the respondent by placing an accurate copy of it in an envelope, certified mail, return receipt requested, with proper postage prepaid and plainly addressed to Highland Hills Sanitary district, 566 East 13th Place, Lombard, Illinois 60148 on January 15, 2015. A copy of the signed return receipt green card is attached as exhibit A. The sole purpose of this amended proof of service is to reflect that Susan Bruce is the only complainant and that Perry Bruce is not a complainant.

Respectfully submitted,

HUCK BOUMA PC



Lawrence A. Stein

Lawrence A. Stein
HUCK BOUMA PC
1755 South Naperville Road
Wheaton, Illinois 60189
Telephone (630) 221-1755
Facsimile (630) 221-1756
Attorney No. 6216903

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
1. Article Addressed to: <p style="text-align: center;">Highland Hills Sanitary District 566 E. 13th Pl. Lombard, IL 60148</p>	B. Received by (Printed Name) <i>Kirsten Schoenke</i>	C. Date of Delivery <i>1-20-15</i>
2. Article Number <i>(Transfer from service label)</i>	D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:	
PS Form 3811, July 2013	3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery	
Domestic Return Receipt	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes 7012 3460 0001 8729 1713 <i>22262-1</i>	

EXHIBIT A

CERTIFICATE OF MAILING

I, Linda Koster, state as follows under penalty of perjury this eighteenth day of March 2015:

1. I filed this *Amended Proof of Service* by placing it in an envelope with proper postage prepaid and plainly addressed to State of Illinois, Clerk of the Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601.

2. I served this *Amended Proof of Service* by placing accurate copies of it in an envelope with proper postage prepaid and by certified mail, return receipt requested, and plainly addressed to Joseph R. Podlewski, Jr., Esq., Heidi E. Hanson, Esq., Podlewski & Hanson P.C., 4721 Franklin Avenue, Suite 1500, Western Springs, Illinois 60558.

3. I deposited the envelopes in the United States mail at Wheaton, Illinois on March 18, 2015, before 4:30 p.m.

4. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.

