

**FOR THE ILLINOIS POLLUTION CONTROL**

SUSAN M. BRUCE, )  
 )  
 Complainant, )  
 )  
 v. ) No. PCB 15-139  
 )  
 HIGHLAND HILLS SANITARY DISTRICT, )  
 )  
 Respondent. )

**RESPONSES TO RESPONDENT'S FIRST REQUEST TO ADMIT FACTS**

Claimant, SUSAN M. BRUCE, by and through her attorneys, ARONBERG

GOLDGEHN DAVIS & GARMISA, LLC, responds to the respondent's first request to admit facts, as follows:

0. Complainant objects to the "definitions and instructions," on pages 1 and 2 of the request to the extent they purport to "instruct" complainant to respond to the requests in a manner not required by law and to the extent the "definitions" seeks to give any word, words, or phrases anything other than their plain and ordinary meaning.

1. Susan M. Bruce resided at the Property during the period beginning on January 1, 1989 and through January 1, 2015

**RESPONSE:**

The complainant admits that she resided at the property from approximately January 1, 1989 until sometime in or around August of 2013. The complainant denies all other parts of the request.

2. There was a valve (hereinafter referred to as "check valve") located on the private sewer pipe at the Property (which pipe connects the plumbing in the house to the public sewer) during the period from January 1, 1989 through July 1, 2010.

**RESPONSE:**

Objection. The request is too vague for the complainant to understand what exactly the respondent means by the word "valve." There are many types of valves, and no doubt very similar or even identical valves may be called by different names. So the reference to the valve

as a “check valve” fails to specify exactly what valve the respondent is referring to. Moreover, this request is improper, as it would require the complainant, at a minimum, to consult with a professional, to be able to understand exactly what valve the respondent is referring to.

3. The check valve could be closed in order to prevent any sewage from flowing into the house.

**RESPONSE:**

Objection. The request is too vague for the complainant to understand what exactly the respondent means by the word “valve.” There are many types of valves, and no doubt very similar or even identical valves may be called by different names. So the reference to the valve as a “check valve” fails to specify exactly what valve the respondent is referring to. Moreover, this request is improper, as it would require the complainant, at a minimum, to consult with a professional, to be able to understand exactly what valve the respondent is referring to.

Moreover, whether the valve “could be closed” is speculative and does not specify the manner in which it “could be closed.”

4. The check valve ceased to function in July of 2010.

**RESPONSE:**

Objection. The request is too vague for the complainant to understand what exactly the respondent means by the word “valve.” There are many types of valves, and no doubt very similar or even identical valves may be called by different names. So the reference to the valve as a “check valve” fails to specify exactly what valve the respondent is referring to. Moreover, this request is improper, as it would require the complainant, at a minimum, to consult with a professional, to be able to understand exactly what valve the respondent is referring to.

5. There was no maintenance performed on the check valve between January 1, 1989 and July 6, 2015.

**RESPONSE:**

Objection. The request is too vague for the complainant to understand what exactly the respondent means by the word “valve.” There are many types of valves, and no doubt very similar or even identical valves may be called by different names. So the reference to the valve as a “check valve” fails to specify exactly what valve the respondent is referring to. Moreover, this request is improper, as it would require the complainant, at a minimum, to consult with a professional, to be able to understand exactly what valve the respondent is referring to. Moreover, the request is improper in that it fails to delineate what “maintenance” means with “valve.”.

6. During the period from July 1, 2010 to July 6, 2015 the check valve was not either repaired or replaced.

**RESPONSE:**

Objection. The request is too vague for the complainant to understand what exactly the respondent means by the word “valve.” There are many types of valves, and no doubt very similar or even identical valves may be called by different names. So the reference to the valve as a “check valve” fails to specify exactly what valve the respondent is referring to. Moreover, this request is improper, as it would require the complainant, at a minimum, to consult with a professional, to be able to understand exactly what valve the respondent is referring to. Moreover, the request is improper in that it fails to delineate what “repaired” means with respect to the “valve.”

7. When the check valve was closed there were no sewer backups inside the house on the Property during the period from January 1, 1989 to July 1, 2010.

**RESPONSE:**

Objection. The request is too vague for the complainant to understand what exactly the respondent means by the word “valve.” There are many types of valves, and no doubt very similar or even identical valves may be called by different names. So the reference to the valve

as a “check valve” fails to specify exactly what valve the respondent is referring to. Moreover, this request is improper, as it would require the complainant, at a minimum, to consult with a professional, to be able to understand exactly what valve the respondent is referring to.

8. There is a pipe (hereinafter “cleanout pipe”) located on the Property which can be used for cleaning out or rodding out the pipe(s) on the Property.

**RESPONSE:**

The complainant admits there is a pipe on the property that can be used for cleaning out or rodding at least one pipe on the property.

The complainant objects to the remainder to the request as vague. The construction “pipe(s)” is necessarily vague and ambiguous, as it could refer to one or any number of other pipes on the property. Since the construction “pipe(s) refers to at least 2 pipes on the property, that part of the request is to vague and ambiguous to require an answer.

9. During the time she resided at the Property, Susan M. Bruce or one or more of her husbands have opened the cleanout pipe which resulted in sewage flowing onto the ground outside of the house on the Property.

**RESPONSE:**

The complainant denies the request.

10. One of the three sewer backups that complainant alleged in her Amended Complaint occurred in 2010, occurred either on or within 36 hours of July 24, 2010.

**RESPONSE:**

As of the submission of this response, the complainant cannot truthfully admit or deny the request in whole for reasons including:

- a. The request is significantly detailed; and
- b. The complainant cannot recall whether the detailed request is true or false, or true in part and false in part, because she has not yet been able to refresh her recollection, for reasons including that the materials that might refresh the complainant’s

recollection are not readily available to her for reasons including that she has not been able to access any materials that might refresh the complainant's recollection, for reasons including that any such materials are not readily available to her for reasons including her living conditions, the condition of her health, and her responsibilities to care for members of her family who cannot completely care for themselves.

11. One of the three sewer backups that complainant alleged in her Amended Complaint occurred in 2010, occurred either on or within 48 hours of August 4, 2010.

**RESPONSE:**

As of the submission of this response, the complainant cannot truthfully admit or deny the request in whole for reasons including:

- a. The request is significantly detailed; and
- b. The complainant cannot recall whether the detailed request is true or false, or true in part and false in part, because she has not yet been able to refresh her recollection, for reasons including that the materials that might refresh the complainant's recollection are not readily available to her for reasons including that she has not been able to access any materials that might refresh the complainant's recollection, for reasons including that any such materials are not readily available to her for reasons including her living conditions, the condition of her health, and her responsibilities to care for members of her family who cannot completely care for themselves.

12. One of three sewer backups that complainant alleged in her Amended Complaint occurred in 2010, occurred either on or within 48 hours of one of the other two backups alleged in 2010.

**RESPONSE:**

As of the submission of this response, the complainant cannot truthfully admit or deny the request in whole for reasons including:

- a. The request is significantly detailed; and

b. The complainant cannot recall whether the detailed request is true or false, or true in part and false in part, because she has not yet been able to refresh her recollection, for reasons including that the materials that might refresh the complainant's recollection are not readily available to her for reasons including that she has not been able to access any materials that might refresh the complainant's recollection, for reasons including that any such materials are not readily available to her for reasons including her living conditions, the condition of her health, and her responsibilities to care for members of her family who cannot completely care for themselves.

13. All of the backups alleged in the Amended Complaint have happened during rain events.

**RESPONSE:**

The complainant admits the request.

14. The Property did not experience sewer backups in 2011 or 2012.

**RESPONSE:**

As of the submission of this response, the complainant cannot truthfully admit or deny the request in whole for reasons including:

- a. The request is significantly detailed; and
- b. The complainant cannot recall whether the detailed request is true or false, or true in part and false in part, because she has not yet been able to refresh her recollection, for reasons including that the materials that might refresh the complainant's recollection are not readily available to her for reasons including that she has not been able to access any materials that might refresh the complainant's recollection, for reasons including that any such materials are not readily available to her for reasons including her

living conditions, the condition of her health, and her responsibilities to care for members of her family who cannot completely care for themselves.

15. The Property only experienced sewer backups on days when it experienced flooding in the back yard.

**RESPONSE:**

The complainant denies the request.

16. The “respondent’s equipment or structure” located in the back yard of the Property and referred to in paragraph 6 of the Amended Complaint, is a storm sewer manhole.

**RESPONSE:**

Objection. The request is too vague for the complainant to understand whether the structure is a “storm sewer manhole.” Moreover, the request is improper, as it would require the complainant, at a minimum, to consult with a professional, to be able to understand whether the request is true or not.

17. Sewage did not enter Complainant’s home when the check valve was shut.

**RESPONSE:**

Objection. The request is too vague for the complainant to understand what exactly the respondent means by the word “valve.” There are many types of valves, and no doubt very similar or even identical valves may be called by different names. So the reference to the valve as a “check valve” fails to specify exactly what valve the respondent is referring to. Moreover, this request is improper, as it would require the complainant, at a minimum, to consult with a professional, to be able to understand exactly what valve the respondent is referring to.

18. Complainant has not observed sewage discharging from any structure in her back yard, other than the cleanout pipe.

**RESPONSE:**

Objection. Overly broad. Vague. The request is unbounded by time, and the reference to “any structure” is ambiguous, as the reference necessarily refers to at least two “structures,” without specifying the structure or structures in the back yard.

19. Complainant has not observed sewage being spilled into any river, body of water or stream from the cleanout pipe on the Property.

**RESPONSE:**

Objection. Overly broad. Vague. The request is unbounded by time, and the reference to “any river, body of water or stream” is ambiguous, as the reference necessarily refers to at least two collections of water without specifying any particular collections of water. Moreover, the request does not specify whether or not it refers to temporary collections of water that form after rain, such as ponding, water flowing over the surface of the land that is not a river, stream, or other body of water, including whether the water that collects in the gully in front of each lot in her neighborhood, where water collects when it rains and flows by gravity, is being referred to.

SUSAN M. BRUCE

/s/ Lawrence A. Stein

By: \_\_\_\_\_  
One of Her Attorneys

Lawrence A. Stein  
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**VERIFICATION**

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 *Response to Respondent's First Request to Admit Facts* are true and correct, except as to matters herein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

  
SUSAN M. BRUCE

Date: June 16, 2016

**CERTIFICATE OF SERVICE**

1. I, LAWRENCE A. STEIN, certify under penalty of perjury on this seventeenth day of June, 2016, as follows:

2. I served this *Responses to First Request to Admit Facts* by emailing accurate copies of it from my office at 330 North Wabash Avenue, Suite 1700, Chicago, Illinois 60611, to:

a. Joseph R. Podlewski, Jr., Esq. at [jpodlewski@live.com](mailto:jpodlewski@live.com)

b. Heidi Hanson, Esq., at [heh70@hotmail.com](mailto:heh70@hotmail.com); and

c. Brad Halloran, at [Brad.Halloran@illinois.gov](mailto:Brad.Halloran@illinois.gov).

3. I transmitted the emails on June 17, 2016 at approximately 9 am.

/s/ Lawrence A. Stein

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