

**Marek Kruk, Complainant, v. New Trier High School, Respondent
PCB 20-10 (Citizens Enforcement - Noise)**

COMPLAINANT'S RESPONSES and OBJECTIONS TO:

**I. RESPONDENT'S ANSWERS TO COMPLAINANT'S
INTERROGATORIES – ROUND 2**

AND

**II. RESPONDENT'S RESPONSES TO COMPLAINANT'S
REQUESTS FOR PRODUCTION OF DOCUMENTS – ROUND 2**

AND

**III. RESPONDENT'S ANSWERS TO COMPLAINANT'S
REQUESTS TO ADMIT**

**Also, attached for reference: NEW TRIER HIGH SCHOOL
DISTRICT NO. 203'S ANSWERS TO MAREK KRUK'S FIRST
SET OF INTERROGATORIES TO NEW TRIER HIGH SCHOOL
DISTRICT NO. 203**

PRELIMINARY STATEMENT

This complaint, PCB 2020-010 was filed in August of 2019 because New Trier High School failed to stop operating the school dust collector after learning and making admissions that this dust collector operated above allowable noise limits established by the Illinois EPA Pollution Control Board.

This complaint was also filed because the district failed to address other outstanding noise issues to include loud overnight activity in the school's new service dock, documented in video recordings as recently as late 2022, which is 5 years after initial complaints.

The district's failure to acknowledge these violations and lack of sense of urgency to act on these violations sets a precedent that will not deter future violations.

The district's answers and responses to complainant's first set and round 2 interrogatories, requests to admit, and requests for production of documents are inconsistent, incomplete, and contradictory. It is especially concerning that after making numerous admissions to operating the non-compliant equipment and subjecting the complainant and his family to excessive noise the district is now attempting to intimidate and deter the complainant from seeking further evidence in this case by making frivolous and baseless accusations of harassment.

I. COMPLAINANT'S RESPONSES and OBJECTIONS TO RESPONDENT'S ANSWERS TO COMPLAINANT'S INTERROGATORIES – ROUND 2 (See below in Bold Italics addressing each specific answer and response)

1. Please provide names of all individuals and their job titles at the district, to include the Board of Education members, who in 2018 and 2019 were made aware of the findings in the Shiner acoustics report dated 08/15/2018.

Answer: Respondent objects to this interrogatory on the grounds that it is vague and ambiguous and not limited in time or scope, as it conceivably calls for the names and job titles of *all* individuals at the district. Additionally, Respondent objects to the interrogatory as it seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case and potentially calls for confidential/privileged information. Respondent further objects to the extent the Request is overbroad, unduly burdensome, not

calculated to lead to relevant discovery pertaining to whether the District is or is not in violation of Illinois noise ordinances, and made solely for purposes of harassment

The complainant objects to this response by the district to the extent that the district is attempting to obstruct access to evidence and intimidate the complainant. The complainant further objects to this response by the district to the extent that the district had previously answered to complainant's first set of interrogatories (answer #4) that only 3 individuals (Chris Johnson, Steve Linke, and Dave Conway) were aware of the noise measurements taken pertaining to the allegations raised in this matter, which is inaccurate. Therefore, this question was asked again to establish that numerous other individuals employed by the district were also aware of the these noise measurements to include the New Trier High School Superintendent and the Board of Education Members. See Respondent's answer # 7 to Complainant's Requests to Admit, admitting that Christopher Johnson sent the Shiner report containing the noise measurements taken to the Superintendent Paul Sally and The Board of Education President. (Also, see Respondent's answer # 11 to Complainant's Requests to Admit admitting that the Board Of Education was involved in the process of approving expenditures for noise mitigation measures to include the noise barrier wall). It is relevant and important that this question is answered truthfully and accurately to establish the list of individuals who were aware of the noise measurements in order for proper depositions to take place. The complainant further objects to this response by the district to the extent that the answer to this question will, in fact, lead to relevant discovery that will reveal that all individuals employed by the district who were aware of the noise measurements taken knew that the dust collector was non-compliant. The New Trier High School Board of Education would not have otherwise approved expenditures of over \$50,000 for noise mitigation measures without merit and absent justification. Moreover, the answer

to this question will also lead to relevant discovery that will establish ownership of the decision that should have been made to voluntarily self-disclose and stop operating the non-compliant dust collector. Establishing this ownership will be the first and critical step to deter future violations in a timely matter.

2. Please include the dates when these individuals were first notified.

Answer: Respondent objects to this interrogatory on the grounds that it is vague and ambiguous as to the phrase “these individuals.” Additionally, Respondent objects to the interrogatory as it seeks information that is not relevant to any party’s claim or defense and/or proportionate to the needs of the case and potentially calls for confidential/privileged information. Respondent objects to this interrogatory because the Complainant has exceeded the number of interrogatories allowed by Illinois law.

The complainant objects to this response by the district to the extent that the district has not yet answered the number of questions allowed by Illinois law. The complainant further objects to this response to the extent that the question is relevant to establish a timeline and dates when the individuals employed by the district were first notified and made aware of the findings in the Shiner report dated 08/15/2018.

3. This is a follow up to question 10 from the first set of interrogatories. See below.

The district’s response does not answer question # 10. The district states that remedial efforts were made until measurements evidenced compliance. The question stands - Why were the Woodland Ave residents not warned of the excessive and harmful noise emanating from the dust collector?

10. Why were the Woodland Ave residents not warned of the excessive and harmful noise emanating from the dust collector?

ANSWER: The School District objects to this request to the extent it calls for a legal conclusion and to the extent the plaintiff requests irrelevant information not reasonably calculated to lead to admissible evidence. Subject to and without waiving these objections, the School District made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emissions levels, despite the fact that no violation of noise levels has been shown pursuant to Illinois regulations, and even though the School District was under no duty or obligation to notify outside parties of noise measurement results. Investigation continues.

Answer: Respondent objects to this interrogatory on the grounds that it is vague and ambiguous, argumentative, not limited in time or scope and to the extent that it calls for a legal conclusion (that the dust collector was emitting and excessive and harmful noise). Additionally, Respondent objects to the interrogatory as it seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case and potentially calls for confidential/privileged information. Respondent objects to this interrogatory because the Complainant has exceeded the number of interrogatories allowed by Illinois law. Subject to and without waiving the aforementioned objections and without admitting that the dust collector ever emanated an excessive and/or harmful noise, Respondent answers as follows: Interrogatory number 3, although poised as a "follow up" question, does not seek clarification from Respondent's response to Interrogatory No. 10. but merely restates the identical question. Respondent stands by its response to Interrogatory No. 10 as no violation of noise levels have been shown pursuant to Illinois regulations and Respondent does not have a duty to warn nearby residents of noise coming from the dust collector.

The complainant objects to this response by the district to the extent that the district never answered the question, therefore, the question was restated. It is important to note that the initial Pollution Control Board ruling dated 11/07/2019, page 2 stated that “whether the respondent “voluntarily self-disclosed the violation” “ will become a factor in imposing a civil penalty on the respondent.

4. This is a follow up to question 29 from the first set of interrogatories. See below.

The district has taken delivery of heavy HVAC chiller unit for the new east side addition. This unit was installed on December 20, 2022 in the building facing Woodland Ave, south of the service dock. The construction of the east side addition is still ongoing. Please provide information on ventilation and exhaust systems for this unit to include locations and where it will be vented outside. What impact is this unit projected to have on noise emissions on Woodland Ave?

29. Are there plans to install any additional noise generating equipment that will further degrade enjoyment and quality of life of residents on Woodland Ave.

ANSWER: The School District objects to this request to the extent that it is speculative and requests irrelevant information not reasonably calculated to lead to admissible evidence. Subject to and without waiving these objections, no. Investigation continues.

Answer: Respondent objects to this interrogatory on the grounds that it is vague and ambiguous, argumentative, not limited in time or scope and to the extent that it calls for a legal conclusion. Additionally, the interrogatory seeks information that is not relevant to any party’s claim or defense and/or proportionate to the needs of the case. Respondent objects to this interrogatory because the

Complainant has exceeded the number of interrogatories allowed by Illinois law.

The complainant objects to this response by the district to the extent that the district has not yet answered the number of questions allowed by Illinois law. The complainant further objects to this response to the extent that the question is relevant to deter future violations as the investigation continues.

5. What class was scheduled in the wood shop in the summer school in 2019?

Answer: Respondent objects to this interrogatory on the grounds that it is vague and ambiguous and not limited in time or scope. Additionally, the interrogatory seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case. Respondent objects to this interrogatory because the Complainant has exceeded the number of interrogatories allowed by Illinois law.

The complainant objects to this response by the district to the extent that the district has not yet answered the number of questions allowed by Illinois law. The complainant further objects to this response to the extent that the question is relevant as the district failed to stop operating the school dust collector after learning and making admissions that the dust collector operated above allowable noise limits established by the Illinois EPA Pollution Control Board. Furthermore, the district continued operating the non-compliant dust collector in the summer of 2019 to include Saturdays when school was out, after having made admissions and having full knowledge and understanding of dust collector non-compliance.

6. Please provide current operational schedule for the dust collector and roof top kitchen fan.

Answer: Respondent objects to this interrogatory on the grounds that it is vague and ambiguous and not limited in time or scope. Additionally, the interrogatory seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case. Respondent objects to this interrogatory because the Complainant has exceeded the number of interrogatories allowed by Illinois law.

The complainant objects to this response by the district to the extent that the district has not yet answered the number of questions allowed by Illinois law. The complainant further objects to this response to the extent that the question is relevant as the district does not monitor their HVAC systems operations and runs various HVAC equipment even when not required.

II. COMPLAINANT'S RESPONSES and OBJECTIONS TO RESPONDENT'S RESPONSES TO COMPLAINANT'S REQUESTS FOR PRODUCTION OF DOCUMENTS – ROUND 2 (See below in Bold Italics addressing each specific answer and response)

NOW COMES, Respondent, New Trier High School District No. 203 (the "District"), by and through its attorneys, Robbins Schwartz, Nicholas, Lifton and Taylor, Ltd, and hereby responds to Complainant's Requests for Production of Documents – Round 2 as follows:

1. Produce any and all reports and numeric measurements of noise emissions prepared by or for the district as they relate to this case, including but not limited to descriptions of corresponding measurement techniques and emissions results.

Response: Respondent objects to this request, as it potentially calls for confidential/privileged information to the extent that it requests “all reports;” Respondent objects to this request on the grounds that it is vague and ambiguous, overburdensome, and not limited in time or scope. Respondent objects to this request because it seeks information in the possession of, known to, or otherwise equally available to the complainant. Subject to and without waiving the aforementioned objections, Respondent answers as follows: This request is duplicative as the information has already been produced. See Exhibits to New Trier’s Answers to Kruk’s First Interrogatories dated December 16, 2022.

The complainant objects to this response by the district to the extent that the complainant is not requesting any confidential/privileged information. The complainant further objects to this response by the district to the extent that the complainant is requesting all reports and numeric measurements of noise emissions prepared by or for the district as they relate to this case.

2. Produce all documents in the district’s possession showing a compliance by the District of noise standards pursuant to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection.

Response: Respondent objects to this request on the grounds that it is vague and ambiguous, argumentative, not limited in time or scope and to the extent that it calls for a legal conclusion. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent is unable to comply with Request No. 2 because no such documents exist.

No objection - Investigation continues

3. Produce and identify with specificity each document you intend to introduce as an exhibit or to offer into evidence at trial.

Response: Respondent objects to this request to the extent that it calls for confidential/privileged information and it is premature. Subject to and without waiving the aforementioned objections, Respondent answers as follows: This request is duplicative as the information has already been produced. See Exhibits to New Trier's Answers to Kruk's First Interrogatories dated December 16, 2022.

No objection - Investigation continues

4. Produce and identify with specificity all documents considered or used in providing the district's answers to the complainant's Interrogatories delivered simultaneously with this Request to Produce.

Response: Respondent objects to this request to the extent that it calls for confidential/privileged information and it is premature. Subject to and without waiving the aforementioned objections, Respondent answers as follows: see Respondent's document production in connection with these responses and Exhibits to New Trier's Answers to Kruk's First Interrogatories dated December 16, 2022.

No objection - Investigation continues

5. Produce and identify with specificity each document and all communications used by the district regarding understanding of the noise experts reports. Include all memoranda and electronic communications between the district employees to include Board of Education members as well as individuals involved externally that centered on discussions of noise emissions by the district.

Response: Respondent objects to this request, as it potentially calls for confidential/privileged information. Respondent further objects to the extent the Request is overbroad, unduly burdensome, and not calculated to lead to relevant discovery pertaining to whether the District is or is not in violation of Illinois noise ordinances. The request is also vague to the extent that it calls for memoranda and communications with “individuals involved externally.”

The complainant objects to this response by the district to the extent that the district has not provided the requested documents. The complainant further objects to this response to the extent that the request is relevant and asking for correspondence and communications of the district employees with any individuals who were involved in producing and discussing the noise expert reports pertaining to this case.

Investigation continues.

6. Produce and identify with specificity each document used by the district to communicate with the vendor or contractor who designed, fabricated and installed the noise barrier wall for the dust collector. Include all memoranda and electronic communications between above mentioned vendor or contractor and district employees to include Board of Education members as well as individuals involved externally.

Response: Respondent objects to this request on the grounds that it is vague and ambiguous, not limited in time or scope, and it seeks information that is not relevant to any party’s claim or defense and/or proportionate to the needs of the case. Respondent further objects to the extent the Request is overbroad, unduly burdensome, and not calculated to lead to relevant discovery pertaining to whether the District is or is not in violation of Illinois noise ordinances. The

request is also vague to the extent that it calls for documents relating to “all individuals involved externally.”

The complainant objects to this response by the district to the extent that the district has not provided the requested documents. The complainant further objects to this response to the extent that the request is relevant and asking for documents, correspondence and communications of the district employees with any individuals who were involved in erecting the noise barrier and pertaining to the allegations raised in this matter.

Investigation continues.

7. Produce and identify with specificity each document used by the district to approve funds for the noise barrier wall installed in the service dock to reduce noise from the dust collector as well as other expenditures for noise reduction measures. Include all documents, approvals, requests for approval, memoranda and electronic communications between the New Trier High School Board of Education or any other individual employed by the district or otherwise to approve above mentioned funds. Include any communication, memoranda or emails requesting approval and specific justifications for approval of the said funds.

Response: Respondent objects to this request on the grounds that it is vague and ambiguous, not limited in time or scope, and it seeks information that is not relevant to any party’s claim or defense and/or proportionate to the needs of the case. Respondent further objects to the extent the Request is overbroad, unduly burdensome, and not calculated to lead to relevant discovery pertaining to whether the District is or is not in violation of Illinois noise ordinances.

The complainant objects to this response by the district to the extent that the district has not provided the documents and information as

requested. The complainant further objects to this response to the extent that some documents were provided by the district only after FOIA request was made, subsequent to this response or lack thereof. The complainant further objects to this response to the extent that this request is seeking further information as stated.

Investigation continues.

8. Produce and identify with specificity each document, invoice, receipt, and work order used by the district to finance, and pay for the noise barrier wall installed in the service dock to reduce noise from the dust collector. Include all documents, approvals, memoranda and electronic communications between the New Trier High School Board of Education or any other individual employed by the district or otherwise to conduct business and transactions with the outside vendors and contractors.

Response: Respondent objects to this request on the grounds that it is vague and ambiguous, not limited in time or scope, and it seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case. Respondent further objects to the extent the Request is overbroad, unduly burdensome, and not calculated to lead to relevant discovery pertaining to whether the District is or is not in violation of Illinois noise ordinances.

The complainant objects to this response by the district to the extent that the district has not provided the documents and information as requested. The complainant further objects to this response to the extent that some documents were provided by the district only after FOIA request was made, subsequent to this response or lack thereof. The complainant further objects to this response to the extent that this request is seeking further information as stated.

Investigation continues.

9. Produce and identify with specificity each document used by the district to communicate and approve funds for noise consultants and experts hired to conduct measurements and provide expertise regarding noise on Woodland Ave. Include all memoranda and electronic communications between the district employees to include NTHS Board of Education members as well as individuals involved externally.

Response: Respondent objects to this request on the grounds that it is vague and ambiguous, not limited in time or scope, and it seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case. Respondent further objects to the extent the Request is overbroad, unduly burdensome, and not calculated to lead to relevant discovery pertaining to whether the District is or is not in violation of Illinois noise ordinances.

The complainant objects to this response by the district to the extent that the district has not provided the documents and information as requested. The complainant further objects to this response to the extent that some documents were provided by the district only after FOIA request was made, subsequent to this response or lack thereof. The complainant further objects to this response to the extent that this request is seeking further information as stated.

Investigation continues.

10. Produce and identify with specificity each document used by any district employee to justify approval of the funds to procure and finance the noise barrier wall installed in the service dock to reduce noise from the dust collector, roof top noise deflecting shields, as well as other expenditures for noise reduction measures. Include all memoranda and electronic communications between the district employees and vendors or contractors to include NTHS Board of Education members as well as other individuals involved externally.

Response: Respondent objects to this request on the grounds that it is vague and ambiguous, not limited in time or scope, and it seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case. Respondent further objects to the extent the Request is overbroad, unduly burdensome, and not calculated to lead to relevant discovery pertaining to whether the District is or is not in violation of Illinois noise ordinances. The request is also vague to the extent that it calls for documents relating to "individuals involved externally."

The complainant objects to this response by the district to the extent that the district has not provided the documents and information as requested. The complainant further objects to this response to the extent that some documents were provided by the district only after FOIA request was made, subsequent to this response or lack thereof. The complainant further objects to this response to the extent that this request is seeking further information as stated.

Investigation continues.

11. Identify, provide names of the companies, outside vendors or contractors who performed the work on all noise reduction components to include installation of the noise barrier wall and roof top noise deflecting shields. Include address and contact information for above mentioned vendors and contractors. Include engineering drawings and recommendations for above mentioned noise reducing components.

Response: Respondent objects to this request on the grounds that it is vague and ambiguous, not limited in time or scope, and it seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case. Respondent further objects to the extent the Request is not calculated to lead to relevant discovery pertaining to whether the District is or is not in violation

of Illinois noise ordinances. The request is also vague as to the phrase “performed the work” and to the extent that it calls for documents reflecting “recommendations for above mentioned noise reducing components.”

The complainant objects to this response by the district to the extent that the district has not provided the information as requested. The complainant further objects to this response to the extent that there should be nothing vague about the phrase “performed work”.

Performed work = work done. This request is seeking information regarding the names of the companies, outside vendors or contractors who did the work for the district related to and as it pertains to this case PCB 2020-010.

12. Provide make and model number and/or the name of the dust collector installed in the service dock to include the manufacturer’s part number and serial number. Include photograph of the manufacturer’s data plate.

Response: Respondent objects to this request that it potentially calls for documents not in the possession or control of Respondent.

Respondent objects that it does not have a duty to perform additional inspections and take photographs in order to properly respond to this request. Respondent further objects to the extent the Request is not calculated to lead to relevant discovery pertaining to whether the District is or is not in violation of Illinois noise ordinances. Subject to and without waiving the aforementioned objections, Respondent answers as follows: United Air Specialties Inc. Model SDC1050 Serial # 60070763.

No objection - Investigation continues

13. Provide all communications regarding recommendations received from the mechanical engineers who advised the district on noise reduction measures to include communication regarding the 13 roof top units. Provide any document, memoranda, emails, and written justification for not implementing the recommendations provided by the mechanical engineer. Attach engineering drawings.

Response: Respondent objects to this request on the grounds that it is vague and ambiguous as it does not specify the recipient of communications regarding recommendations from the mechanical engineers, not limited in time or scope and to the extent that it potentially calls for confidential/privileged information. The request is also vague and ambiguous as it calls for “engineering drawings” without further explanation as to what engineering drawings are requested. Respondent further objects to the extent the Request is not calculated to lead to relevant discovery pertaining to whether the District is or is not in violation of Illinois noise ordinances.

The complainant objects to this response by the district to the extent that the district has not provided the documents and information as requested. The complainant further objects to this response to the extent that some documents were provided by the district only after FOIA request was made, subsequent to this response or lack thereof. The complainant further objects to this response to the extent that this request is seeking further information as stated. This request is seeking all communications regarding recommendations received by the district from the mechanical engineers who advised the district on noise reduction measures to include communication regarding the 13 roof top units. This request is also seeking any document, correspondence, memoranda, emails, and written justification for not implementing the recommendations provided by the mechanical engineer. The recipient of the information requested would naturally be the district. Also, contrary to the district’s response, this request will

lead to relevant discovery and is meant to uncover if there were further violations. The district has already made numerous admissions to the complainant about being non-compliant based on sound reports that indicated the dust collector non-compliance.

Investigation continues.

III. COMPLAINANT’S RESPONSES and OBJECTIONS TO RESPONDENT’S ANSWERS TO COMPLAINANT’S REQUESTS TO ADMIT (See below in Bold Italics addressing each specific answer and response)

NOW COMES, Respondent, New Trier High School District No. 203 (the “District”), by and through its attorneys, Robbins Schwartz, Nicholas, Lifton and Taylor, Ltd, and hereby responds to Complainant’s Requests to Admit as follows:

1. The Kruk property is now subjected and exposed to numerous sources of noise pollution that did not exist on Woodland Ave before the new addition was added to the New Trier High School, Winnetka Campus, in 2017. Prior to that, the Kruk property was shielded from noise generated on the school property by the old music building that was demolished.

Answer: Respondent objects to this request on the grounds that it is impermissibly compound. As written, the request asks Respondent to admit to two separate sentences. Additionally, this request is vague and ambiguous as to the phrase “Kruk property,” the term “subjected to” and “new addition” and the limitation of “now.” Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent is unaware of all potential sources of noise pollution and is unaware of the noise level at the “Kruk property” immediately prior to the new addition to the New Trier High School, Winnetka Campus and therefore lacks sufficient information to admit or deny this request.

Additionally, Respondent lacks sufficient information to admit or deny that “prior to [2017], the Kruk property was shielded from noise generated on the school property by the old music building that was demolished.”

The complainant objects to this response by the district to the extent that the district has not provided the answer as requested. The complainant further objects to this response by the district to the extent that Dave Conway, the Director of Physical Plant Services was the one who stated that the property at 124 Woodland Ave, Winnetka, Il, 60093(the Kruk Property) was shielded from noise by the old music building that was demolished (prior to 2017 New Trier High School remodel)

2. The district was presented with noise expert reports that indicated dust collector exceeded Illinois daytime limits in multiple frequency bands.

Answer: Respondent objects to this request on the grounds that it is not limited in time or scope, it is vague and ambiguous as it does not specify the “Illinois daytime limits” requested, and it seeks information that is not relevant to any party’s claim or defense and/or proportionate to the needs of the case. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Denied to the extent that the district received noise expert reports which measured noise emitted by the dust collector that did not strictly comply with the measuring techniques listed in 35 Illinois Administrative Code §910.105 and therefore cannot indicate noise in excess of Illinois limits.

The complainant objects to this response by the district to the extent that the district has made numerous admissions to the complainant about being non-compliant and never questioned the sound reports that indicated the dust collector non-compliance prior to the Pollution Control Board ruling dated 04/07/2022, which only addressed the sound reports submitted with the District’s Motion for Summary

Judgment as a proof of alleged compliance. The complainant further objects to this response to the extent that the district correctly believed the August 15, 2018 Shiner Acoustic report to be compliant with measurement techniques required by Illinois law. The district's attorney, Mr. Florey incorrectly believed and stated during the January 2023 status call with the Hearing Officer that the microphone was positioned at 18 feet above the ground when the dust collector was tested for the August 15, 2018 Shiner Acoustic report. Unbeknownst to Mr. Florey, page 4 of the said report clearly states that "the microphone was positioned at a height of 4-1/2 ft above ground level" during dust collector testing.

3. The district started operating the dust collector in the fall of 2017. The HEPA filters were installed in the collector in the spring on 2018.

Answer: Respondent objects to this request on the grounds that it is impermissibly compound. As written, the request asks Respondent to admit to two separate sentences. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent admits that it started operating the dust collector in the fall of 2017 and that it installed HEPA filters in the spring of 2018.

The complainant objects to this response by the district to the extent that the district denied initially operating the dust collector without the HEPA filters. See district's answer to question #2 of the complainants first set of interrogatories to New Trier High School District No. 203.

4. The district has acknowledged that the dust collector operated above allowable limits and had full knowledge that the noise reports produced by the experts indicated "that Illinois daytime limits are exceeded in the 250 Hz and upper frequency bands" as reported by Shiner Acoustics report dated 08/15/2018.

Answer: Respondent objects to this request on the grounds that it is not limited in time or scope and vague as to the terms “has acknowledged,” “allowable limits,” and “full knowledge” and to the extent that it calls for a legal conclusion regarding the same. Additionally, this request seeks information that is not relevant to any party’s claim or defense and/or proportionate to the needs of the case. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Denied to the extent that the Shiner Acoustics report dated 8/15/2018 did not strictly comply with the measuring techniques listed in 35 Illinois Administrative Code §910.105, and therefore the District was unaware of the legal extent of the noise emitted from the dust collector both after subsequent noise remediation efforts and after realization that the 8/15/2018 Shiner Acoustics report was non-compliant with §910.105. The district admits that the language quoted in Request to Admit No. 4 is contained in the non-compliant Shiner Acoustics report dated 8/15/2018.

The complainant objects to this response by the district to the extent that the district has made numerous admissions to the complainant about being non-compliant based on sound reports that indicated the dust collector non-compliance. The complainant further objects to this response by the district to the extent that Shiner Acoustics report dated 8/15/2018 was never ruled to be non-compliant with 35 Illinois Administrative Code §910.105.

5. The district has stated: “The School District made remedial efforts after Mr. Kruk’s complaints until noise measurements evidenced compliance with noise emissions levels” see district answer to question #10 of the first set of complainant’s interrogatories.

Answer: Respondent objects that this request is vague and ambiguous as to what it calls for Respondent to admit. Subject to and without waiving the aforementioned objection, Respondent answers as follows: Respondent admits that it stated “The School District made remedial efforts after Mr. Kruk’s complaints until noise measurements evidenced

compliance with noise emission levels” in response to Complainant’s Interrogatory No. 10.

The complainant objects to this response by the district to the extent that the district has made numerous admissions to the complainant about being non-compliant and later advised that they “made remedial efforts after Mr. Kruk’s complaints until noise measurements evidenced compliance with noise emissions levels”, thereby making another admission of dust collector non-compliance.

6. To date, neither the district, nor any of their representatives, have produced any report of numeric testing of noise emissions at the Kruk property which conforms to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection, and which evidences a compliance of the Pollution Control Board’s noise regulations at Section 901.102(a) and (b)(35 Ill. Adm. Code 901.102(a), (b)).

Answer: Respondent objects to this request on the grounds that it is not limited in time or scope, it calls for a legal conclusion, it is vague as to the term “Kruk property” and to the extent that it is impermissibly compound. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Admit.

No objection - investigation continues

7. The New Trier High School Assistant Superintendent, Christopher Johnson admitted to the complainant, Marek Kruk in a letter dated 04/03/2019 that the district was evaluating dust collector noise mitigating options that will put them in compliance with the standard. This letter was also sent to New Trier High School Superintendent Paul Sally and Board of Education President, Greg Robitaille.

Answer: Respondent objects to this request to the extent that it is impermissibly compound, as it asks Respondent to admit to Christopher Johnson's alleged admission that the District was evaluating noise mitigating options and to the extent it asks Respondent to admit that the letter was sent to Paul Sally and Greg Robitaille. This request is vague and ambiguous as to whether it is asking Respondent to admit the noise mitigation options would put them in compliance with the standard or whether it is asked to admit Christopher Johnson specifically admitted that the noise mitigating options would put them in compliance with the standard. Additionally, this request calls for the legal conclusion as to whether Christopher Johnson's letter is an "admission." Subject to and without waiving the aforementioned objections, Respondent answers as follows: Admit.

No objection - investigation continues

8. The district Director of Physical Plant, David Conway had verbally disclosed to the complainant, in a meeting with Village of Winnetka Community Development Director and Assistant Director present, that the district did in fact receive a sound report that indicated that the dust collector operated above allowable limits. He also noted in the same meeting that the district administration was also aware that the dust collector continued to operate, despite having learned that it exceeded Illinois daytime limits in the 250 Hz and upper frequency bands. David Conway further assured that the dust collector only exceeded Illinois daytime limits by a few decibels and only in several octaves. Kruk renewed his request for a copy of the report.

Answer: Respondent objects to this request to the extent that it is impermissibly compound, to the extent that it asks Respondent to admit: (1) David Conway verbally disclosed to Complainant that the district received a sound report that indicated the dust operator operated above allowable limits; (2) David Conway noted the district administration was aware the dust collector continued to operate despite knowing it

exceeded Illinois daytime limits; (3) David Conway assured that the dust collector only exceeded Illinois daytime limits by a few decibels; (4) David Conway assured that the dust collector only exceeded Illinois daytime limits in several octaves; and (5) Complainant renewed his request for a copy of the report. Respondent additionally objects to this request on the grounds that it seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Admit.

The complainant objects to this response by the district to the extent that this request does, in fact, seek relevant information. The district's response to this request serves as yet another admission of the district's failure to stop operating the school dust collector after learning and making admissions that this dust collector operated above allowable noise limits established by the Illinois EPA Pollution Control Board.

9. The district did not send the requested report to Kruk until 04/03/2019 and continued operating the dust collector despite having made admissions that they possessed the knowledge that it operated above allowable limits. The initial sound test measurements were conducted on 05/31/2018.

Answer: Respondent objects to this request to the extent that it is impermissibly compound, to the extent that it asks Respondent to admit: (1) the district sent the requested report to Complainant on 4/3/19; (2) the dust collector operated above allowable limits; (3) the district operated the dust collector despite knowing that it operated above allowable limits; (4) the initial sound test measurements were conducted on 5/31/18. Respondent additionally objects this request on the grounds that it seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case and calls for a legal conclusion. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent admits that the

first of two sound measurements contained in the August 15, 2018 Shiner Acoustics report were taken on May 31, 2018, admits to sending Kruk a courtesy copy of the report on April 3, 2019, and admits to operating the dust collector after subsequent noise remediation efforts. Request to Admit No. 9 is denied to the extent that the District incorrectly believed the August 15, 2018 Shiner Acoustic report to be compliant with measurement techniques required by Illinois law.

The complainant objects to this response by the district to the extent that New Trier High School failed to stop operating the school dust collector after learning and making admissions that this dust collector operated above allowable noise limits established by the Illinois EPA Pollution Control Board. Despite numerous admissions by the district and sound reports that indicated the dust collector non-compliance the district continued to operate the dust collector. The complainant further objects to this response to the extent that the district correctly believed the August 15, 2018 Shiner Acoustic report to be compliant with measurement techniques required by Illinois law. However, during the January 2023 status call the with the Hearing Officer, the district's attorney, Mr. Florey incorrectly believed and stated that the microphone was positioned at 18 feet above the ground when the dust collector was tested for the August 15, 2018 Shiner Acoustic report. Unbeknownst to Mr. Florey, Page 4 of the said report clearly stated that "the microphone was positioned at a height of 4-1/2 ft above ground level" during dust collector testing.

10. The district operates the dust collector for several hours a day, Monday through Saturday all year round to include summer breaks.

Answer: Respondent objects to this request on the grounds that it is not limited in time or scope and is vague and ambiguous as to the phrase "several hours a day." Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent

admits to operating the dust collector when school and summer school are in session and when projects necessitate it.

No objection - investigation continues

11. The Board of Education was involved in the process of approving expenditures for noise mitigation measures to include erecting of the noise barrier wall for the dust collector.

Answer: Respondent objects to this request on the grounds that it is not limited in time or scope and is vague and ambiguous as to the term “involved.” Subject to and without waiving the aforementioned objections, Respondent answers as follows: Admit.

No objection - investigation continues

12. The district uses the new service dock 24/7 to dispose of trash, and for night shift custodial activity among other activities. The trash is thrown into the dumpsters/compactors and compactors are operated to crush items thrown into them during the night hours between 10PM and 7AM.

Answer: Respondent objects to this request on the grounds that it is not limited in time or scope and is vague and ambiguous as to the terms “new,” “custodial activity,” and “other activities.” Additionally, Respondent objects to this request as being impermissibly compound, as it asks Respondent to admit: (1) the District uses the service dock 24/7 to dispose of trash; (2) the District uses the service dock for night shift custodial activity; (3) the District uses the service dock for other activities; (4) the trash is thrown into the dumpsters/compactors; (5) the compactors are operated to crush items during the hours of 10:00 p.m. and 7:00 a.m.. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Deny. Respondent does not

operate the dumpsters/compactors between the hours of 7:00 p.m. and 7:00 a.m.

The complainant objects to this response by the district to the extent that the district is not providing accurate information. The district has been operating the dumpsters/compactors between the hours of 7:00 p.m. and 7:00 a.m. since 2017, despite numerous complaints.

13. The district has received numerous videos showing loud, night time noise activity and disposing of trash in the service dock as well as loud compactor operation since the new building was erected in 2017. Most recent video showing this night time disturbance at 2AM was sent to the district in September of 2022, after the district posted signage “to keep noise to a minimum” and “No noise after 7PM” in 2021.

Answer: Respondent objects to this request on the grounds that it is not limited in time or scope and is vague and ambiguous as to the terms “numerous,” and “loud.” Additionally, Respondent objects to this request as being impermissibly compound, as it asks Respondent to admit to multiple assertions and sentences. Respondent additionally objects to this request on the grounds that it seeks information that is not relevant to any party’s claim or defense and/or proportionate to the needs of the case and calls for a legal conclusion. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent is unable to adequately answer due to the vague wording of the request for admission, however, Respondent replaced the compactors with different models, moved the motors inside the building in order to reduce noise, and does not operate the compactors between the hours of 7:00 p.m. and 7:00 a.m. Respondent admits that it has received various videos from Kruk which do not contain quantitative sound measurements.

The complainant objects to this response by the district to the extent that the district is not providing accurate information. The district has

been operating the dumpsters/compactors between the hours of 7:00 p.m. and 7:00 a.m. since 2017, despite numerous complaints.

14. The district runs the kitchen fan/rooftop unit during the night hours between 10PM and 7AM and on the weekends.

Answer: Respondent objects to this request on the grounds that it is not limited in time or scope and is vague and ambiguous as to the term “rooftop unit.” Subject to and without waiving the aforementioned objections, Respondent answers as follows: Deny. Respondent begins cooking for 3000 people at approximately 4:30 or 5:00 a.m. during the week and only uses the kitchen fan/rooftop unit on the weekends if there is a special event.

The complainant objects to this response by the district to the extent that the district does in fact use the kitchen fan/roof top unit between 10PM and 7AM and on the weekends. The kitchen fan is often left running continuously for days at time.

15. The district hired a mechanical engineer who advised them on noise reducing measures that can be taken to further reduce the noise. The district was advised by this engineer that they can reduce the “noise from the rooftop equipment by removing the 13 sound shields that attach to the equipment and have a custom unistrut frame made that will attach to the roof curb and not make contact with the equipment.”

Answer: Respondent objects to this request on the grounds that it is not limited in time or scope and it is impermissibly compound. Respondent additionally objects to this request on the grounds that it seeks information that is not relevant to any party’s claim or defense and/or proportionate to the needs of the case. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent admits that it hired a mechanical engineer who advised them

of noise reducing measures, however, the sound engineer retained by Respondents informed them that the work the mechanical engineer requested would have little to no effect on the sound noise.

16. The district had taken delivery of heavy HVAC chiller equipment in December of 2022 for the new east side addition being currently built. This equipment was installed in the basement of the building facing Woodland Ave - on the west side of the school campus, south of the service dock (in front of Kruk property). See Picture below.

Answer: Respondent objects to this request on the grounds that it is vague as to the term “Kruk property.” Respondent additionally objects to this request on the grounds that is impermissibly compound, it seeks information that is not relevant to any party’s claim or defense and/or proportionate to the needs of the case. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent admits that in December 2022 it received delivery of HVAC chiller equipment, but denies the location as described. The new, smaller unit was installed on the north side of the building in the basement.

No objection - investigation continues

17. The trucks servicing New Trier High School park daily on Woodland Ave with engines idling for extended periods of time. When unable to enter the service dock, the delivery trucks unload while being parked on Woodland Ave. Loud impulsive noise is heard throughout the day when garbage trucks drop the compactors onto the dock floor and delivery trucks drop pallets and other items. The noise is amplified by echo chamber like characteristics of the service dock.

Answer: Respondent objects to this request on the grounds that it is not limited in time or scope and it is vague as to the phrases “expended periods of time,” “loud impulsive noise,” “other items,” “throughout the

day,” and “echo chamber like characteristics.” Respondent objects this request on the grounds that is impermissibly compound, as it asks Respondent to admit to the following: (1) trucks servicing the high school park daily on Woodland Ave., (2) trucks servicing the high school park with their engines idling; (3) trucks servicing the high school park idling for extended periods of time; (4) the delivery trucks unload while parked on Woodland Ave.; (5) trucks drop items onto the dock floor; (6) throughout the day; (7) resulting in loud, impulsive noise; (8) the noise is amplified by echo chamber like characteristics of the service dock. Additionally, Respondent objects to this request as it seeks information that is not relevant to any party’s claim or defense and/or proportionate to the needs of the case and calls for a legal conclusion. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent lacks sufficient information to admit or deny Request to Admit No. 17 regarding the actions of vendor trucks throughout the day and denies Request to Admit No. 17 to the extent that respondent has communicated to all vendors that they are not permitted to park and unload on Woodland Ave. Respondent further denies that vendor trucks drop the compactors onto the dock floor.

The complainant objects to this response by the district to the extent that the district is not providing accurate information. The trucks servicing New Trier High School do, in fact, park daily on Woodland Ave with engines idling for extended periods of time. When unable to enter the service dock, the delivery trucks unload while being parked on Woodland Ave. This activity continues to occur daily.

Respectfully,

Marek Kruk

07/14/2023

Attachments:

**NEW TRIER HIGH SCHOOL DISTRICT NO. 203'S ANSWERS
TO MAREK KRUK'S FIRST SET OF INTERROGATORIES TO
NEW TRIER HIGH SCHOOL DISTRICT NO. 203**

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MAREK KRUK))) Complainant,)

) Case No. PCB 2020-010 v.)

**) NEW TRIER HIGH) SCHOOL DISTRICT NO. 203,))
Respondent.)**

**NEW TRIER HIGH SCHOOL DISTRICT NO. 203'S ANSWERS
TO MAREK KRUK'S FIRST SET OF INTERROGATORIES TO
NEW TRIER HIGH SCHOOL DISTRICT NO. 203**

Respondent New Trier High School District No. 203 (the "District"), by and through its attorneys, Robbins, Schwartz, Nicholas, Lifton & Taylor, Ltd, hereby responds to Complainant, Marek Kruk's First Set of Interrogatories as follows:

GENERAL OBJECTIONS

The School District makes the following General Objections to Kruk's Interrogatories that are hereby incorporated into each of the School District's individual answers to Kruk's Interrogatories:

A. The School District objects to Kruk's Interrogatories to the extent that they seek information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

B. The School District objects to Kruk's Interrogatories to the extent that discovery is ongoing and the School District's investigation and internal discovery is ongoing. The School District will supplement any newly discovered information in accordance with the Illinois Rules of Civil Procedure and the Court's discovery schedule.

C. The School District objects to Kruk's Interrogatories to the extent that they seek information protected and privileged under the attorney-client privilege and attorney work product doctrine.

D. The School District's inclusion of these General Objections in any response to an individual Interrogatory shall not operate as a waiver to that General Objection for failure to specifically include said objections in any other response.

INTERROGATORIES

1. Concerns about potential noise pollution from the newly erected buildings facing Woodland Ave were raised by the residents during pre-reconstruction neighborhood meetings. What considerations were made during the design stages to address these concerns and ensure public safety and compliance as it relates to the dust collector and other noise generating equipment placed in the new service dock and along Woodland Ave?

ANSWER: The School District objects to this request because it requests irrelevant information not reasonably calculated to lead to admissible evidence. Subject to and without waiving this objection, New Trier High School District strives to be in compliance with applicable laws and regulations at all times and worked with its contractors during the design process and afterwards. Investigation continues.

2. Was the dust collector initially operated without the required HEPA filters and for how long?

ANSWER: The School District objects to this request because it requests irrelevant information not reasonably calculated to lead to admissible evidence. Subject to and without waiving this objection, no. Investigation continues.

3. Please provide names of all individuals and their job titles at the district who were made aware of the fact that the dust collector was noncompliant and operated above allowable noise limits.

ANSWER: The School District objects to this request to the extent that the dust collector has not been found to be noncompliant with Illinois noise regulations, pursuant to Illinois noise measurement standards as outlined in 35 Ill. Adm. Code 900.103(b) and 910.105. Subject to and without waiving this objection, the following

2

individuals are aware of the noise measurements taken pertaining to the allegations raised in this matter.

Johnson, Christopher T – Associate Superintendent Conway, David E - Director of Physical Plant Services Steve Linke - Facilities Manager

Investigation continues.

4. Please include the dates when these individuals were first notified.

ANSWER: The School District objects to this request because it is vague as to the subject of the request notification. Subject to and without waiving this objection, on or around August 15, 2019, Shiner Acoustics rendered its first report regarding rooftop equipment. Investigation continues.

5. Did the district disclose this non-compliance in a timely manner, through appropriate channels and to appropriate parties to include the affected residents of Woodland Ave?

ANSWER: The School District objects to this request to the

extent that the equipment has not been found to be noncompliant with Illinois noise regulations, pursuant to Illinois noise measurement standards as outlined in 35 Ill. Adm. Code 900.103(b) and 910.105. The School District further objects to this request because it requests irrelevant information not reasonably calculated to lead to admissible evidence. Subject to and without waiving these objections, the School District does not have a duty to disclose noise measurements and there are no such “appropriate parties.” Nonetheless, all noise measurements were timely provided to plaintiff Mr. Kruk during the course of the instant matter filed August 23, 2019. Investigation continues.

6. Describe the process protocol that is followed when the district learns that it is in violation of any local, state, or federal laws and regulations.

ANSWER: The School District objects to this request to the extent it calls for attorney-client privileged information, to the extent the request is unduly broad, to the extent the plaintiff requests irrelevant information not reasonably calculated to lead to admissible evidence, and to the extent it calls for speculation. Subject to and without waiving these objections, and without admitting any violation, any such hypothetical situation is highly fact dependent and generally warrants a unique discussion with relevant inside and/or outside parties and/or counsel to achieve compliance with relevant laws and regulations. Investigation continues.

7. Provide the names and job titles of individuals employed by the district who would be involved and responsible for addressing such violations.

ANSWER: The School District objects to this request to the extent it calls for attorney-client privileged information, to the extent the request is unduly broad, to the extent the plaintiff requests irrelevant information not reasonably calculated to lead to admissible evidence, and to the extent it calls for speculation. Subject to and without waiving these objections, as the question applies to the instant matter:

**Johnson, Christopher T – Associate Superintendent Conway,
David E - Director of Physical Plant Services Steve Linke-
Facilities Manager**

Investigation continues.

8. Please identify any local, state or federal law, statute, regulation or other legal authority that allowed the district to continue to operate this equipment having full knowledge that it was noncompliant and operated above the allowable noise limits.

ANSWER: The School District objects to this request to the extent that the equipment has not been found to be noncompliant with Illinois noise regulations, pursuant to Illinois noise measurement standards as outlined in 35 Ill.

Adm. Code 900.103(b) and 910.105. The School District further objects to this request to the extent it calls for a legal conclusion. Subject to and without waiving this objection, there has been no data or evidence which indicates a violation of noise regulations pursuant to the relevant legal standards of measurement. Nonetheless, the School District endeavors to be in compliance with applicable laws and regulations.

Investigation continues.

9. Please provide further explanation as to why this equipment was allowed to continue to operate daily, not only during normal school hours but also during optional summer school and extracurricular activities, even during breaks when the school was not in session.

ANSWER: The School District objects to this request to the extent it is unduly broad and to the extent the plaintiff requests irrelevant information not reasonably calculated to lead to admissible evidence. Subject to and notwithstanding these objections, the School District operates its building equipment consistent the normal course of business. Investigation continues.

4

10. Why were the Woodland Ave residents not warned of the excessive and harmful noise emanating from the dust collector?

ANSWER: The School District objects to this request to the extent it calls for a legal conclusion and to the extent the plaintiff requests irrelevant information not reasonably calculated to lead to admissible evidence. Subject to and without waiving these objections, the School District made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emissions levels, despite the fact that no violation of noise levels has been shown pursuant to Illinois regulations, and even though the School District was under no duty or obligation to notify outside parties of noise measurement results. Investigation continues.

11. Should the district have stopped operating the dust collector after they were advised it operated above allowable noise limits?

ANSWER: The School District objects to this request to the extent it calls for a legal conclusion and speculation and to the extent the plaintiff requests irrelevant information not reasonably calculated to lead to admissible evidence. The School District further objects to this request to the extent that the equipment has not been found to be noncompliant with Illinois noise regulations, pursuant to Illinois noise measurement standards as outlined in 35 Ill. Adm. Code 900.103(b) and 910.105. Subject to and without waiving these objections, the School District made remedial efforts after Mr. Kruk's complaints. Investigation continues.

12. Please provide/resubmit all noise measuring reports that were performed for New Trier High School as well as procedures and measurements of all equipment tested (including rooftop units and cafeteria fans) to include those reports and measurements that have not been disclosed to date, and therefore, not reviewed by the Board.

ANSWER: The School District objects to this interrogatory because it seeks information already in the possession of, known to, or otherwise equally available to the plaintiff Mr. Kruk; subject to and without waiving this objection, see attached. Investigation continues.

13. Please include the measurements and procedures for both the testing that was performed in January of 2020, as it was specifically mentioned in the March 20, 2020 Shiner Acoustics report

first disclosed in the District's Motion for Summary Judgement, and the 07/15/2019 report that included details of 07/12/2019 testing and procedures.

ANSWER: The School District objects to this interrogatory because it seeks information already in the possession of, known to, or otherwise equally available to the plaintiff Mr. Kruk; subject to and without waiving this objection, see attached. Investigation continues.

14. Why was The Shiner Acoustics report dated 07/15/2019 showing the measurements and procedures for the testing done on 07/12/2019 not disclosed by the district until January 2022 despite numerous requests by the complainant to attain all noise measuring reports and testing performed for New Trier High School?

ANSWER: The School District objects to this request to the extent the plaintiff requests irrelevant information not reasonably calculated to lead to admissible evidence. Subject to and without waiving these objections, this information was provided to Mr. Kruk as soon as practicable. Investigation continues.

15. The Shiner Acoustics reports dated 03/20/2020 (testing done on 03/16/2020) and 03/01/2021 (testing done on 06/18/2020) were performed by Mr. Baillie, Professional Engineer licensed in Alberta, Canada. Was Mr. Baillie qualified to perform said testing in accordance with and strict adherence to Section 900.103(b) and 910.105 of the Board's rules, since he was licensed in Alberta, Canada and not Illinois, USA?

ANSWER: Yes. Investigation continues.

16. What were the findings and recommendations presented by the mechanical engineer hired by the district in 2021 "to review the sounds emitted from the dust collector and other equipment to see

if there are any other steps that can be taken to further reduce the sounds from this equipment.” According to Mr. Florey’s February 4, 2021 email, “The District expects the mechanical engineer to come out later next week or early the following week”

6

ANSWER: The mechanical engineer did not find any additional reasonable measures that could be taken to reduce noise levels. Investigation continues.

17. Was there any work done to the dust collector or other equipment after the respondent reported during June 2021 status call with the hearing officer “that their noise consultant is still attempting to alleviate some of the base sound around the site”?

ANSWER: Since the last sound testing on June 18, 2020 New Trier has completed the following:

- **[?] July 2020 – Moved the compactor power units inside the building to reduce noise.**
- **[?] February 2021 – Hired a mechanical engineer to evaluate the systems and make recommendations on what could be done to help with noise**
- **[?] April 2021 – Insulated the outside of the compactors**
- **[?] April 2021 – Changed the run time of the compactors from five cycles per start**

(less than industry standard) to three cycles to reduce the run time

- **[?] April 2021 – Posted signage in the dock area reminding everyone to keep noise to a minimum**

- **[?] May 2022 – Added insulating panels to the outside of the compactors**

- **[?] June 2022 – Commissioned a custom manifold to be made so that the District can use compressed oxygen for Glass Arts instead of liquid oxygen; the District uses liquid oxygen because the compressed gas cylinders are emptied and must be changed almost daily, whereas liquid lasts for approximately two weeks. Nonetheless, this change was made due to complaints that the liquid oxygen tank is loud when the automatic pressure vent releases PSI due to its mechanical regulation of PSI levels dependent on weather and use.
Investigation continues.**

18. Was there any subsequent sound testing done after any work was accomplished?

ANSWER: No. Investigation continues.

19. Was the district advised at any point that the roof top units were operating above allowable limits?

ANSWER: No. Investigation continues.

7

20. Please list and specify all the work to include dates that has been done to the rooftop units along Woodland Avenue to include the noise deflecting shields on multiple roof top units.

ANSWER: The School District objects to this request to the extent that it is unduly burdensome and requests irrelevant information not reasonably calculated to lead to admissible evidence. Subject to and without waiving this objection, see the District's answer to Interrogatory 17. The District has been advised by its experts that removing the 13 sound shields which are attached to the rooftop equipment and replacing those shields with separate custom framing would not result in an appreciable difference in noise levels, and therefore no such additional work has been performed. Investigation continues.

21. The District had previously communicated in February 2021 that they were looking into extending/modifying the noise deflecting shields on the roof top units. Has any of this work been done and any subsequent sound testing performed?

ANSWER: See the District's answer to Interrogatory 20, above.

22. Has there been any testing done if front of other properties on Woodland Ave, some of which are closer in proximity to the dust collector?

ANSWER: No. Investigation continues.

23. Does the district believe they should be compliant in front of other homes on Woodland Ave or only in front of 124 Woodland Ave?

ANSWER: The School District objects to this request to the extent the plaintiff requests irrelevant information not reasonably calculated to lead to admissible evidence and to the extent it calls for legal conclusions. Subject to and without waiving these objections, the School District strives to be in compliance with applicable laws and regulations at all times. Investigation continues.

24. Please provide details of the district's plan to address the ongoing night time disturbance and loud noise activity in the service dock. The district has not been responding to inquiries citing the nature of this formal complaint.

8

ANSWER: New Trier High School District strives to be in compliance with applicable laws and regulations at all times. If a noise violation is evidenced within the course of this instant matter or otherwise, the School District will timely address it with appropriate noise mitigation efforts. Investigation continues.

25. Please advise on the district's plan to address the loud, explosion like noise coming from the new service dock when the metal dumpsters are picked up and dropped by garbage trucks multiple times a day.

ANSWER: New Trier High School District strives to be in compliance with applicable laws and regulations at all times. If a noise violation is evidenced within the course of this instant matter or otherwise, the School District will timely address it with appropriate noise mitigation efforts. Investigation

continues.

26. Please provide information on the dust collector maintenance schedule and whether the district plans on retesting the sound levels after major components, i. e. main motor are changed.

ANSWER: The School District objects to this request to the extent that it is speculative and requests irrelevant information not reasonably calculated to lead to admissible evidence.

Subject to and without waiving these objections, the School District has no legal obligation to conduct additional noise emissions testing. The dust collector maintenance schedule is variable based on the School District's needs and use.

Investigation continues.

27. Does the district plan to perform any additional work to further and substantially reduce noise from the dust collector and other equipment as previously communicated to proactively address possible/likely future violations?

ANSWER: The School District objects to this request to the extent that it is speculative and requests irrelevant information not reasonably calculated to lead to admissible evidence.

Subject to and without waiving these objections, and without admitting any current violation, if a noise violation is evidenced within the course of this instant matter or otherwise, the School District will timely address it with appropriate noise mitigation efforts. Investigation continues.

28. Please advise if there are any plans to develop a monitoring system to deter further violations and ensure compliance of all noise generating equipment.

9

ANSWER: The School District objects to this request to the extent that it is speculative and requests irrelevant information not reasonably calculated to lead to admissible evidence. Subject to and without waiving these objections, and without admitting any current violation, the School District has no legal obligation to conduct such additional monitoring. Investigation continues.

29. Are there plans to install any additional noise generating equipment that will further degrade quality of life of residents on Woodland Ave.

ANSWER: The School District objects to this request to the extent that it is speculative and requests irrelevant information not reasonably calculated to lead to admissible evidence. Subject to and without waiving these objections, no. Investigation continues.

Dated: December 16, 2022

Kenneth M. Florey (6211374)

Katie DiPiero (6332334)

ROBBINS, SCHWARTZ, NICHOLAS, LIFTON & TAYLOR, LTD.

55 West Monroe Street, Suite 800 Chicago, Illinois 60603

(312) 332-7760 (phone) kflorey@robbins-schwartz.com

kdipiero@robbins-schwartz.com

10

Respectfully Submitted,

New Trier High School District No. 203

Kenneth M. Florey By: /s/ _

One of its Attorneys
