

FILED
1/23/2025 2:14 PM
Mariyana T. Spyropoulos
CIRCUIT CLERK
COOK COUNTY, IL
2023CH05147
Calendar, W
31101151

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, LAW DIVISION

PRESTIGE FEED PRODUCTS, LLC, an Illinois
limited liability company,

Plaintiff/Counter-Defendant,

v.

VILLAGE OF MOUNT PROSPECT, an Illinois
municipal corporation, et.al.,

Defendants/Counter-Plaintiffs.

Case No. 2023 CH 5147
(transferred to Law Division)
Hon. Thomas More Donnelly
Calendar W
Courtroom 1912

CITY OF DES PLAINES, an Illinois municipal
corporation,

Intervening Petitioner

**PRESTIGE FEED PRODUCTS, LLC’S SUPPLEMENTAL REPLY TO
VILLAGE OF MOUNT PROSPECT’S SUPPLEMENTAL RESPONSE
TO PRESTIGE’S MOTION FOR JUDGMENT ON THE PLEADINGS
AND PARTIAL SUMMARY JUDGMENT**

The Village’s Supplemental Response has no factual and legal effect on Prestige’s arguments in the Motion and Reply. Three random readings of 15 Dilution Threshold (“D/T”) out of 225 total readings between November 14, 2024, and January 22, 2025, are *de minimis* and insufficient to create a genuine issue of material fact and prevent the entry of summary judgment. Also, the Village misrepresents the status of the Montessori School location, and the application of the dilution thresholds in 35 IAC §245.121 to the Montessori School and nearby residences.

First, the Village points to this Court the Confidential Interim Agreement entered between Prestige, the Village, and the City on October 25, 2024, following extensive court appearances and negotiations, pursuant to which Prestige submitted its nighttime operations to continuous odor monitoring. Since November 14, 2024, there have been 15 calendar testing days with readings taken at 15 different locations surrounding the Prestige plant, for a total of 225 readings. A true and correct copy of the Summary of Readings is attached hereto and identified as **Exhibit “A”**.

Of those 225 readings, 147 of them (65.33%) have been “Non-Detectable” meaning zero odor of any kind detected, 54 readings (24%) have been “2 D/T,” 11 readings (4.89%) have been “2 D/T,” 8 readings (3.56%) have been “4 D/T,” 2 readings (0.89%) have been “7 D/T,” 3 readings (1.33%) have been “15 D/T,” and no (0) readings have been above 15 D/T. In other words, 98.67% of the readings are at 7 D/T or lower and only 1.33% of the readings are between 7 and 15 D/T. Further, when one adds all the measured dilution threshold points (a total of 167) and divides them by the number of readings (225), the average reading is 0.74, or less than 1 D/T per location.

The three 15 D/T readings are red herrings in comparison to the mountain of objective and scientific odor studies which Prestige has shared with the Village and the Court from 2021, 2023, 2024, and 2025. (See Affidavits of Ryan Hartley and Joe Pesoli filed September 4, 2024). The Village now contends that a single reading of 15 dilutions on the night of January 2, 2025, and a second one on January 9, 2025, creates a genuine issue of material fact. However, the weight of the evidence collected and presented by Prestige cannot be overcome with two random readings on January 2nd and January 9, 2025.

Second, the Montessori School premises are zoned industrial, not residential or educational. The owner of the Montessori school decided to operate a school in an industrial park. The Prestige Facility is not adjacent to residential, recreational, institutional, retail sales, hotel or educational premises, but surrounded on all directions by industrial zoned properties. In fact, both the Mizkan and Montessori School properties to the north are zoned “light industrial,” and therefore, the 24 D/T threshold under 35 IAC §245.121 applies.

Therefore, the Court should enter judgment on the pleadings in favor of Prestige, summary judgment in favor of Prestige, or in the alternative, entry partial summary judgment based upon the objective standards set forth in the Illinois Administrative Code.

Respectfully submitted,

Prestige Feed Products, LLC

By: /s/ Riccardo A. DiMonte
One of its attorneys

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Prestige Feed Products LLC			Summary of Readings															
Field Operator		Matthew Drabik	Matthew Drabik	Matthew Drabik	Matthew Drabik	Matthew Drabik	Evan Lemberger	Matthew Drabik	Izabela Dimevska	Izabela Dimevska	Matthew Drabik	Evan Lemberger	Matthew Drabik	Izebla Dimevska	Matthew Drabik	Mattew Drabik		
Date		11/14/2024	11/17/2024	11/20/2024	12/2/2024	12/4/2024	12/12/2024	12/17/2024	12/19/2024	12/26/2024	12/30/2024	1/2/2025	1/9/2025	1/14/2025	1/16/2025	1/22/2025		
Time Frame		8:10-10:16pm	6:30-8pm	8:35-9:49pm	7:37-8:48pm	8:52-9:58pm	10:01-12:05am	7:23-8:32pm	6:42-8pm	6:23-7:43pm	7:03-8:09pm	8:23-10:03pm	7:15-8:22pm	6:38-8:19pm	7:10-8:17pm	8:40-9:46pm		
Locations		Scentometer Reading or Non-Detect	Scentometer Reading or Non-Detect (ND)	Scentometer Reading or Non-Detect	Scentometer Reading or Non-Detect	Scentometer Reading or Non-Detect	Scentometer Reading or Non-Detect (ND)	Scentometer Reading or Non-Detect	Scentometer Reading or Non-Detect (ND)	Scentometer Reading or Non-Detect (ND)	Scentometer Reading or Non-Detect	Scentometer Reading or Non-Detect (ND)	Scentometer Reading or Non-Detect	Scentometer Reading or Non-Detect (ND)	Scentometer Reading or Non-Detect	Scentometer Reading or Non-Detect	Subtotal	Percentage
Locations	#																	
431 Lakeview Ct, Mt P N Prestige Parking Lot	M-1	<2	4	<2	ND	ND	ND	2	<2	<2	<2	ND	2	<2	ND	<2		
431 Lakeview Ct, Mt P E Prestige Parking Lot	M-2	7	<2	4	<2	2	ND	<2	<2	<2	<2	15	<2	7	2	2		
431 Lakeview Ct, Mt P S Prestige Parking Lot	M-3	<2	ND	ND	ND	ND	<2	ND	ND	ND	<2	ND	ND	<2	ND	ND		
431 Lakeview Ct, Mt P W Prestige Parking Lot	M-4	ND	ND	ND	<2	ND	ND	<2	<2	ND	ND	ND	ND	<2	<2	ND		
1601 Feehanville Drive, Mt P (Mizkan American / Park View Montessori)	M-5	ND	<2	ND	ND	ND	ND	ND	ND	4	ND	ND	15	ND	ND	ND		
1660 Feehanville Drive, Mt P (Professional Endodontics of IL)	M-6	ND	ND	ND	ND	ND	<2	ND	ND	<2	ND	ND	4	ND	ND	ND		
1471 E Business Center Dr, Mt P (DeliverCareRx Pharmacy)	M-7	ND	ND	ND	ND	ND	ND	ND	4	ND	<2	ND	ND	ND	ND	ND		
E Lowden Ln & Yates Ln, Mt P (South of the Facility)	M-8	<2	ND	ND	ND	ND	MD	ND	<2	ND	<2	ND	ND	ND	ND	<2		
E Lowden Ln & N Stratton Ln, Mt P (Southwest of the Facility)	M-9	ND	ND	ND	ND	ND	ND	<2	ND	ND	ND	<2	ND	<2	<2	ND		
1513 Mitchell Ln, Mt P (Inzerillo Residence)	M-10	ND	ND	ND	ND	ND	ND	<2	ND	ND	ND	ND	ND	ND	<2	ND		
676 Middleton Ln, DP (Stillmaker Residence)	M-11	ND	<2	2	ND	ND	ND	<2	ND	ND	ND	15	ND	<2	2	ND		
650 Dursey Ln, DP (Merza Residence) 660 Dursey Ln, DP (Kulaga Residence)	M-12	ND	2	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	ND	2		
774 Mark Ave. DP (Pfisterer Residence)	M-13	ND	ND	ND	ND	2	4	ND	ND	ND	ND	ND	<2	ND	ND	ND		
720 E. Central Rd, DP Steve's Automotive Repair Center	M-14	<2	<2	<2	<2	ND	<2	<2	ND	<2	2	4	<2	<2	ND	<2		
630 Kylemore Dr, DP (Thomas & Kuriakose Residence)	M-15	ND	ND	ND	ND	4	<2	ND	ND	ND	<2	ND	ND	<2	ND	ND		
Readings Frequency																	Subtotal	Percentage
Non-Detect (ND)		10	9	11	12	12	10	8	10	10	8	11	9	7	10	10	147	65.33%
<2		4	4	2	3	0	4	6	4	4	6	1	3	7	3	3	54	24.00%
2		0	1	1	0	2	0	1	0	0	1	0	1	0	2	2	11	4.89%
4		0	1	1	0	1	1	0	1	1	0	1	1	0	0	0	8	3.56%
7		1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	2	0.89%
15		0	0	0	0	0	0	0	0	0	0	2	1	0	0	0	3	1.33%
																	225	100.00%

Exhibit A