

D17-10

NESTOR RIVERA COLON
Querellante
v.
MUNICIPIO AUTONOMO DE CAGUAS
Querellado(a)

CASO NÚM. Q2017-0227
Salón Núm. SALA DE INVESTIGACIONES

Sobre: LEY 140

NOTIFICACIÓN

A: NESTOR RIVERA COLON
URB VILLA BLANCA
17 CALLE ZAFIRO
CAGUAS PR 00725

MUNICIPIO AUTONOMO DE CAGUAS
P/C LIC. MONICA I. VEGA CONDE
APARTADO 907
CAGUAS PR 00726-0907

El (La) Secretario(a) que suscribe certifica y notifica a usted que con relación al (a ia):

- Moción de Enmiendas o Determinaciones Iniciales o Adicionales
- Moción de Reconsideración
- Moción de Nuevo Juicio
- Moción de Reconsideración y de Enmiendas o Determinaciones Iniciales o Adicionales
- Moción de Reconsideración y/o Enmiendas o Determinaciones Iniciales o Adicionales y Nuevo Juicio
- Moción: INFORMATIVA Y PARA QUE SE ARCHIVE QUERELLA
- Caso de Epígrafe

este Tribunal emitió una Orden el 25 de agosto de 2017.

- Se aneja copia o incluye enlace: RESOLUCION
- Se transcribe la determinación a continuación:

f/ SONYA Y. NIEVES CORDERO

SE LE ADVIERTE que al ser una parte o su representante legal en el caso sujeto a esta Resolución, usted puede presentar un recurso de apelación, revisión o certiorari, de conformidad con el procedimiento y en el término establecido por ley, regla o reglamento. aplicable.

CERTIFICO que la determinación emitida por el Tribunal fue debidamente registrada y archivada hoy 3 de octubre de 2017, y que se envió copia de esta notificación a las personas antes indicadas, a sus direcciones registradas en el caso conforme a la normativa aplicable. En esta misma fecha fue archivada en autos copia de esta notificación.

Notas de la Secretaría: _____

En CAGUAS, Puerto Rico, a 3 de octubre de 2017.

CARMEN ANA PEREIRA ORTIZ
Nombre del (de la)
Secretario(a) Regional

Por: f/ BRENDA LEE TORRES PEREZ
Nombre y Firma del (de la)
Secretario(a) Auxiliar del Tribunal

ESTADO LIBRE ASOCIADO DE PUERTO RICO
TRIBUNAL GENERAL DE JUSTICIA
TRIBUNAL DE PRIMERA INSTANCIA
SALA MUNICIPAL DE CAGUAS

NESTOR RIVERA COLON
Querellante

Querrelia Núm. **Q2017-0227**

v.

Sobre:

**MUNICIPIO AUTONOMO DE
CAGUAS**
Querrellada

Ley 140 de 23 de julio de 1974,
según enmendada

RESOLUCIÓN

El 16 de junio de 2017, la parte querellante en el caso de epígrafe solicitó una querrelia al Amparo de la Ley Núm. 140, contra la parte querrellada de epígrafe.

A solicitud de la parte querrellada por conducto de la Lcda. Mónica Y. Vega Conde mediante **Moción Informativa y para que se archive querrelia** presentada el **17 de agosto de 2017** el Tribunal dispone lo siguiente:

“Enterado. Este foro municipal ordena el archivo de la querrelia presentada bajo las disposiciones de la Ley 140, por cuanto la Ley mencionada no faculta a este foro municipal atender la controversia aquí planteada.”

Notifíquese.

Dada en Caguas, Puerto Rico a 25 de agosto de 2017, reducida a escrito hoy 2 de octubre de


HON. SONYA Y. NIEVES CORDERO
JUEZ MUNICIPAL

ESTADO LIBRE ASOCIADO DE PUERTO RICO
TRIBUNAL DE PRIMERA INSTANCIA
SALA DE CAGUAS

| | |
|--|-------------------------------|
| Néstor Rivera Colón Querellante | CASO NÚM.: Q-2017-0227 |
| Vs. Municipio Autónomo de Caguas Querellada | SOBRE: Ley 140 |

2016 AUG 17
CENTRO DE SERVICIOS
SALA DE PRIMERA INSTANCIA

Néstor Rivera Colón
Querellante

MOCIÓN INFORMATIVA Y PARA QUE SE ARCHIVE QUERRELLA

AL TRIBUNAL:

Comparece el **MUNICIPIO AUTÓNOMO DE CAGUAS** por conducto de la representación legal que suscribe, y muy respetuosamente, **EXPONE, INFORMA Y SOLICITA:**

1. El 7 de agosto de 2017 se notificó al Municipio Autónomo de Caguas un referido a las Oficinas de Obras Públicas y a la Secretaría de Infraestructura Ornato y Conservación para la atención del reclamo presentado por la parte querellante.
2. Al respecto, es preciso señalar que la querrela presentada versa sobre los mismos hechos y argumentaciones que presentara el querellante en el Tribunal Federal, Caso Civil No. 16-2045, que a su vez fueron desestimados con perjuicio. (Véase Anejo)
3. El querellante alega en su querrela que la Administración Municipal de Caguas, no ha realizado gestión alguna para atender el reclamo del ciudadano.
4. Conscientes de la importancia de proveerle calidad de vida a nuestros constituyentes y según consta en los expedientes de nuestra ciudad, a pesar de tratarse de un proyecto gestado por la Autoridad de Carreteras y Transporte, las solicitudes de servicio del señor Néstor Rivera Colón, han sido atendidas y debidamente notificadas las medidas correctivas tomadas para atenuar la situación planteada. Todo ello, en ánimo de atender su reclamo.
5. Entre las medidas correctivas tomadas destacamos, la reparación mediante soldadura y sustitución de parrillas, corrección de carretes (marcos de las parrillas pluviales), instalaciones de amortiguadores, entre otras que a todas luces no han resultado satisfactorias para la parte querellante.
6. Incluso, ante el continuo reclamo que presenta el querellante, el 23 de mayo de 2017 se inició un proyecto especial para generar una medida de mitigación adicional que esperamos concluir durante el mes de septiembre de 2017.
7. Cabe destacar que el sistema pluvial de la urbanización Villa Blanca data más de 30 años y el mismo responde a serios problemas de inundabilidad que sufrió el sector. Es por ello, que allá para el 2001, se realizó un proyecto para atender esta situación y el mismo incluyó la alcantarilla a la que hace alusión el querellante. A raíz de la ejecución del proyecto en cuestión, los retos de inundación que sufría la comunidad memaron significativamente por lo que estimamos atendió la situación. Sin embargo, continuamos articulando estrategias para atender el reclamo ciudadano, incluyendo la

evaluación de la reconfiguración de la alcantarilla sin que esto a su vez, genere nuevamente los problemas de inundación que ya se lograron atender en esta comunidad.

8. Por lo antes expuesto, acreditamos que el Municipio Autónomo de Caguas ha tomado todas las medidas que están a su alcance para atender la situación que por años continúa presentando el señor Rivera.

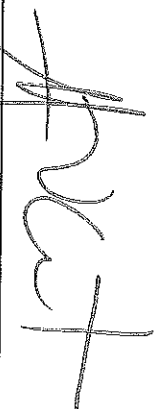
EN MÉRITO DE LO ANTERIOR, respetuosamente solicitamos tome conocimiento del presente escrito, archive la querrela de epígrafe con cualquier otro pronunciamiento que en derecho proceda.

CERTIFICO haber enviado copia del presente escrito al señor Néstor Rivera Colón a la Calle Zafiro #17, Urbanización Villa Blanca, Caguas, Puerto Rico 00725.

En Caguas, Puerto Rico, a 17 de agosto de 2017.

Oficina de la Asesora Ejecutiva
División Legal
MUNICIPIO AUTÓNOMO DE CAGUAS
Apartado 907
Caguas, P.R. 00726-0907
☎: (787) 653-8833 ext. 2727, 2726
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Lcda. Mónica Y. Vega Conde
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Lcda. Zoraida Jiménez Fernández
RUA 13407
Lcda. Iris Ramos Medina
RUA 15307

Por:



Lcda. Mónica Yvette Vega Conde
✉: mvega@caguas.gov.pr

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

NESTOR RIVERA-COLÓN,

Plaintiff,

v.

MIGUEL A. TORRES-DÍAZ, et al.,

Defendants.

CIVIL NO. 16-2045 (GAG)

OPINION AND ORDER

This case concerns a resident's efforts to combat increased traffic noise in his neighborhood.

Plaintiff Nestor Rivera-Colón ("Rivera-Colón")¹ brings this amended complaint against the Municipality of Caguas, the Puerto Rico Highway and Transportation Authority ("PRHTA"), and individual capacity defendants (collectively, "Defendants"),² alleging violation of a federal environmental statute regulating noise. (Docket No. 52.)

Presently before the Court is Defendants' motion to dismiss the amended complaint.³ (Docket No. 52.) Defendants raise two bases for dismissal. First, the Court lacks subject-matter jurisdiction to entertain the amended complaint under Rule 12(b)(1) of the Federal Rules of Civil

¹ Plaintiff purports to represent the "De Facto Community Association of the actual or former residents and owners of 84 homes of the Villa Blanca Urban Community" in the form of a class action. (See Docket No. 42.) However, Plaintiff has not moved the Court for certification of a class, nor presented evidence to support certification of a class under Rule 23. See Fed. R. Civ. P. 23(a)-(c); Baxter v. Palmigiano, 425 U.S. 308, 310 n.1 (1976) (no class action without first identifying and certifying the class). Therefore, given the purely legal questions presented here, the Court declines to address the undeveloped issue of class certification at this stage.

² The Amended Complaint also names Hon. William Miranda Torres, in his personal and official capacity as Mayor of the Municipality of Caguas, and Engineer Miguel A. Torres-Díaz, in his personal and official capacity as Secretary and Director of PHRTA. (Docket No. 42).

³ The Municipality of Caguas moved to dismiss (Docket No. 52), which was joined by PRHTA, (Docket No. 53), and Miranda Torres and Torres-Díaz, in their individual capacities. (Docket No. 54).

1 Rivera-Colón and his neighbors' efforts were unsuccessful. While these state and federal
2 agencies acknowledged a need for change, they either lacked the authority or the funds to provide
3 any assistance or to expropriate the homes. *Id.* ¶ 18. In 2015, Rivera-Colón filed his first federal
4 complaint in this district against these defendants arising under analogous facts. *Rivera-Colón v.*
5 *Torres-Díaz*, No. 15-1048 (DRD), ECF No. 1 (D.P.R. January 21, 2015). The complaint was
6 dismissed for lack of subject-matter jurisdiction because Rivera-Colón did not comply with the
7 statute's pre-suit notice requirements.⁴ *Rivera-Colón v. Torres-Díaz*, 174 F. Supp. 3d 667, 672-73
8 (D.P.R. 2016).

9 Undererred, Rivera-Colón filed a second complaint in federal court, once again alleging
10 violations under the Noise Control Act, as amended by the Quiet Communities Act of 1978, 42
11 U.S.C. §§ 4901-4918, the United States Constitution, and the Constitution of Puerto Rico. (Docket
12 No. 42 ¶¶ 19; 24-30.) As relief, Rivera-Colón demands: (1) compensation for the residents of Villa
13 Blanca for an amount no less than \$200,000 for every affected home; (2) equitable relief in the form
14 of a return to the conditions before Zafiro Street became the José Garrido Avenue or that their homes
15 be expropriated and paid a market-value, which has been appraised at \$183,000 plus \$40,000 per
16 home; (3) a permanent injunction ordering Defendants to reinstate conditions before the conversion
17 of their residential area road to an expressway; and (4) an injunction to restrain Defendants from
18 further adverse actions affecting his environmental, property, and liberty rights. *Id.* ¶ 39. Rivera-
19 Colón also seeks damages under Puerto Rico's tort statute, Articles 1802 and 1803 of the Puerto
20 Rico Civil Code, P.R. LAWS ANN. tit. 31, §§ 5141-5142. *Id.* ¶¶ 25-35.

21
22
23 ⁴ The previous dismissal for lack of subject-matter jurisdiction was without prejudice. *Rivera Colón*, 174
24 F. Supp. 3d at 673. As such, that decision has no *res judicata* effect on this suit because the earlier dismissal did
not operate as an adjudication on the merits of the claim. FED. R. CIV. P. 41(b); see also 18A Wright & Miller,
Fed. Prac. and Proc. Juris. § 4436 (2d ed. 2017).

1 reasonable inferences in the plaintiff's favor. Parker v. Hurley, 514 F.3d 87, 90 (1st Cir. 2008).
2 However, “the tenet that a court must accept as true all of the allegations contained in a complaint
3 is inapplicable to legal conclusions.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). “Threadbare
4 recitals of the elements of a cause of action, supported by mere conclusory statements, do not
5 suffice.” Id. (citing Twombly, 550 U.S. at 555).

6 The First Circuit has cautioned against equating plausibility with an analysis of the likely
7 success on the merits, affirming that the plausibility standard assumes “pleaded facts to be true and
8 read in a plaintiff's favor,” even if seemingly incredible. Sepulveda-Villarini v. Dep't of Educ. of
9 P.R., 628 F.3d 25, 30 (1st Cir. 2010). Instead, “[t]he make-or-break standard . . . is that the combined
10 allegations, taken as true, must state a plausible, [but] not a merely conceivable, case for relief.” Id.
11 at 29; see also Soto-Torres v. Fraticelli, 654 F.3d 153, 159 (1st Cir. 2011).

12 III. Discussion

13 A. The Noise Control Act of 1972

14 The Noise Control Act (“NCA”), 42 U.S.C. §§ 4901-4918, is a federal statute aimed at
15 addressing the adverse environmental, physical, and psychological effects of inadequately controlled
16 noise caused by vehicles and machinery in interstate commerce. See 42 U.S.C. § 4901(b) (“It is the
17 policy of the United States to promote an environment for all Americans free from noise that
18 jeopardizes their health or welfare.”). The NCA contemplates both federal and state regulation of
19 certain types of noise pollution in furtherance of this goal. See Com. of Puerto Rico, ex rel. Sec'y
20 of Justice v. Rumsfeld, 180 F. Supp. 2d 145, 149 (D.D.C. 2002), vacated sub nom. Com. of Puerto
21 Rico ex rel. Sec'y of Justice v. Rumsfeld, 2003 WL 21384576 (D.C. Cir. June 10, 2003). The NCA
22 authorizes the EPA to establish noise regulations for “transportation vehicles and equipment,
23 machinery, appliances, and other products in commerce” which constitute major sources of noise.
24

1 Accordingly, the EPA sets out a strict notice process as a prerequisite to the commencement
2 of a citizen suits under this Act. See 40 C.F.R. §§ 210.1-210.3. Specifically, section 210.2 sets forth
3 the regulatory requirements for service of notice, and states in its relevant part:

4 § 210.2 Service of Notice.

5 d) Notice given in accordance with the provisions of this part shall be deemed to have
6 been served *on the date of receipt*. If service was accomplished by mail, the date of
receipt will be deemed to be *the date noted on the return receipt card*.

7 See 40 C.F.R. § 210.2 (emphasis added). Piecing the statutory language together, no citizen suits
8 may be brought until sixty days after the EPA Administrator has received notice of the alleged
9 violation. The purpose of the notice requirement is twofold: it provides an opportunity for the agency
10 to investigate the alleged violation and encourages resolution by settlement rather than litigation.
11 See Garcia v. Cecos Intern., Inc., 761 F.2d 76, 81-82 (1st Cir. 1985).

12 “As a general rule, if an action is barred by the terms of a statute, it must be dismissed.”
13 Hallstrom, 493 U.S. at 31. Moreover, as applicable to statutory notice requirements, “[t]he Supreme
14 Court has demanded strict adherence to statutory provisions for citizen’s suits in environmental
15 litigation.” Garcia, 761 F.2d at 81; see also Middlesex Cnty. Sewerage Auth. v. Nat’l Sea Clammers
16 Ass’n, 453 U.S. 1, 18 (1981). Further, this District has recognized that “no action may be
17 commenced unless notice of the violation is given to the Administrator of the Environmental
18 Protection Agency and any alleged violator(s), at least sixty (60) days prior to the commencement
19 of the action.” Torres Maysonet v. Drillex, S.E., 229 F. Supp. 2d 105, 107 (D.P.R. 2002) (internal
20 quotations omitted). Strict judicial enforcement of the NCA’s statutory notice requirement also
21 comports with Congress’s intent in creating a citizen suit in the first instance: the “primary function
22 of the provisions for citizen suits is to enable private parties to assist in enforcement efforts where
23 Federal and State authorities appear unwilling to act.” Id. at 107-09.

1 they remain mandatory conditions precedent to the filing of a citizen suit.” Paolino v. JF Realty,
2 LLC, 710 F.3d 31, 36 n.4 (1st Cir. 2013) (holding the requirements of pre-suit notice satisfied where
3 the notice identifies putative plaintiffs, provides contact information, and give defendants an
4 opportunity to cure alleged violations).

5 This distinction matters. Subject-matter jurisdiction defines a court’s power to hear a case,
6 while failure to state a claim relates to the claim’s merits.⁶ See generally 5B Wright & Miller, Fed.
7 Prac. and Proc. Juris. § 1349 (2d ed. 2017). Here, if the sixty-day notice requirement is jurisdictional,
8 then the Court lacks the power to address Defendant’s arguments under Rule 12(b)(6), and the claim
9 must be dismissed without prejudice.⁷ On the other hand, if the notice requirement is not
10 jurisdictional, then the Court can assess the plausibility of the amended complaint, and any dismissal
11 would be with prejudice. Given that the question remains unclear in light of the First Circuit’s recent
12 decision in Paolino, this Court determines that on these particular facts, Rivera-Colón’s failure to
13 provide timely notice does not operate as a jurisdictional bar to prevent this Court from addressing
14 the merits of his claims.

15 Defendants argue that even if Rivera-Colón had satisfied the NCA’s notice requirement, the
16 amended complaint does not state a viable claim under the statute. Specifically, Defendants explain
17 that the NCA does not prohibit the type of conduct alleged, namely, a maximum sound decibel for
18 traffic near a residential neighborhood. (Docket No. 52, at 14.)

19
20 ⁶ A hypothetical illustrates the importance of distinction. Assume Defendants waived the 60-day notice
21 requirement. If notice is jurisdictional, then the waiver is irrelevant, because parties cannot create jurisdiction by
22 consent. E.g., Arn. Fiber & Finishing, Inc. v. Tyco Healthcare Grp., LP, 362 F.3d 136 (1st Cir. 2004) (citation
omitted). If, on the other hand, notice is procedural—a statutory precondition for a claim—then waiver of the
notice requirement would be effective.

23 ⁷ This was the outcome of Rivera-Colón’s first federal lawsuit. Rivera Colón, 174 F. Supp. 3d at 673. As
24 evident here, one practical effect of viewing the statutory notice requirement as strictly jurisdictional is that a
plaintiff may attempt to bring the same claim multiple times. Rivera-Colón’s second bite at the apple has
essentially afforded Defendants the type of effective (though statutorily defective) notice described in Paolino.

1 The three specific acts Rivera-Colón alleges are no help to his claim either. (See Docket No.
2 58 ¶ 39.) First, assuming the Villa Blanca sound decibels “jumped,” Rivera-Colón does not allege
3 Defendants emit this additional noise. Second, the “pluvial metal covers” causing problems on the
4 Villa Blanca road are not noise emitting, under the terms of the statute. Finally, the purported
5 findings of the EPA and JCA do not plausibly attribute any “unbearable noise conditions” to the
6 conduct of the Defendants.

7 Finally, the NCA directs the EPA “to promulgate regulations establishing noise emission
8 standards applicable to manufacturers who design products found to be major sources of noise
9 pollution, such as construction and transportation equipment.” Com. of Puerto Rico, ex rel., 180 F.
10 Supp. at 149 (emphasis added); see also 42 U.S.C. § 4905. All six “prohibited acts” under the NCA,
11 42 U.S.C. § 4909, that could possibly serve as basis for a citizen suit must arise from a violation to
12 an EPA’s specific noise control regulation-requirement. Rivera-Colón “has alleged the existence of
13 no relevant regulation” violated by Defendants and “has therefore not stated a claim for which relief
14 can be granted.” See Clinton Cmty. Hosp. Corp. v. S. Maryland Med. Ctr., 374 F. Supp. 450, 460
15 (D. Md. 1974), aff’d, 510 F.2d 1037 (4th Cir. 1975).

16 Altogether, even if Rivera-Colón had satisfied the 60-day notice requirement, his claim falls
17 outside the statute’s parameters. Therefore, Rivera-Colón’s NCA claim must be dismissed.

18 B. Fourteenth Amendment Claims

19 Alternatively, Rivera-Colón alleges constitutional infringement of his right to life, liberty,
20 and property protected by the Fourteenth Amendment. (Docket No. 42 ¶¶ 19; 24-30.) Defendants
21 object that Rivera-Colón has not distinguished “between procedural and substantive due process”
22 and thus failed to adequately plead the elements of any due process violation. (Docket No. 52 at
23 17.) Although Rivera-Colón does not mention it, civil actions for a deprivation of constitutional
24

1 Rivera-Colón filed grievances and administrative complaints before numerous federal, state, and
2 local agencies. (Docket No. 42, at 7.) These efforts proved unsuccessful, but the existence of these
3 channels establishes the type of fair procedure—i.e. notice and an opportunity to be heard—
4 guaranteed by the due process clause of the Constitution. See Parratt v. Taylor, 451 U.S. 527, 534-
5 44 (1981) (holding that the existence state remedies are sufficient to satisfy the requirements of due
6 process for a section 1983 action); Herwins v. City of Reyere, 163 F.3d 15, 18 (1st Cir. 1998) (same).

7 To state a viable substantive due process claim, a plaintiff must plausibly allege the
8 government’s violation of a protected property interest in a manner that is inherently impermissible,
9 regardless of protective procedures, in such a manner that “shocks the conscience.” Maymi v. P.R.
10 Ports Auth., 515 F.3d 20, 30 (1st Cir. 2008). The government conduct alleged in the amended
11 complaint—essentially, road construction—does not meet this high standard. Accordingly, Rivera-
12 Colón has failed to allege any plausible constitutional claim.

13 C. Puerto Rico State Law Claims

14 Finally, Rivera-Colón alleges violations under the Puerto Rico Constitution and seeks a relief
15 in damages under articles 1802 and 1803 of Puerto Rico Civil Code, P.R. LAWS ANN. tit. 31, §§
16 5141-42 (Docket No. 42 ¶¶ 33-35.)

17 “As a general principle, the unfavorable disposition of a plaintiff’s federal claims at the early
18 stages of a suit, well before the commencement of trial, will trigger the dismissal without prejudice
19 of any supplemental state-law claims.” Rodríguez v. Doral Mortgage Corp., 57 F.3d 1168, 1177 (1st
20 Cir. 1995). In cases where a plaintiff’s federal claims are dismissed, “the balance of factors to be
21 considered under the pendent jurisdiction doctrine—judicial economy, convenience, fairness, and
22 comity—will point toward declining to exercise jurisdiction over the remaining state-law claims.”

23 Id. The use of supplemental jurisdiction in these circumstances is determined on a case-by-case,
24

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

NESTOR RIVERA COLON, in his personal capacity and as representative and leader of a De Facto Community Association of the actual or former residents and owners of 84 homes of the Villa Blanca Urban Community (Zafiro Street Converted to Jose Garrido Avenue in Caguas, Puerto Rico); and formally request to the Honorable Court to Certify actual or former residents and owners of 84 homes of the Villa Blanca Urban Community (Zafiro Street Converted to Jose Garrido Avenue in Caguas, Puerto Rico) as a Class

Plaintiffs

v.

Eng. Miguel A. Torres Diaz in his personal capacity for pecuniary and compensatory damages, and as Secretary of the Transportation and Public Works Department (in Spanish the "Departamento de Transportación y Obras Públicas") and Director of the Highway and Transportation Authority (in Spanish "Autoridad de Carreteras de Puerto Rico"), for equitable relief in his official capacity;

Hon. William Miranda Torres, in his personal and official capacity as Mayor of the Municipality of Caguas, for equitable relief, and pecuniary and compensatory damages;

Highway and Transportation Authority of Puerto Rico represented by its President Eng. Miguel A. Torres Diaz for injunctive relief, and for pecuniary and compensatory damages;

Municipality of Caguas, for equitable relief, pecuniary and compensatory damages, represented by its Mayor Hon. William Miranda Torres for injunctive relief, and for pecuniary and compensatory damages;

X, Y, and Z insurance companies with coverage for liability for any Defendant; and A, B, and C as yet unidentified persons responsible for violation of the Noise Environmental right as protected by the Quiet Communities Act of 1978, Pub.L. No. 95-609, 42 USC 4901ss.

Defendants

CASE NO.

CIVIL ACTION

CIVIL RIGHTS

JURY TRIAL REQUESTED

Quiet Communities Act of 1978, Pub.L. No. 95-609 - 42 USC 4901ss

Supplemental Local Law

Permanent Injunction

Class Action composed of neighbors (84 homes) of the Villa Blanca Urban Community (Zafiro Street Converted to Jose Garrido Avenue in Caguas, Puerto Rico)

And as Necessary or Party in Interest:
LOCAL QUALITY ENVIRONMENTAL BOARD (in Spanish "Junta de Calidad Ambiental de Puerto Rico"), represented by its President Laura Vélez; the Justice Department of Puerto Rico, represented by its Secretary, Hon. César Miranda Rodríguez, in his official capacity, as representative of the DTOP and the ACT; the **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**, represented by its Administrator, Mrs. Gina McCarthy and its Regional Administrator for Region 2, Mrs. Judith A. Enck; United States District Attorney of Puerto Rico, Mrs. Rosa Emilia Rodríguez.

Necessary or Party in Interest

COMPLAINT

TO THE HONORABLE COURT:

NOW COME, the Plaintiffs, through the undersigning counsel, and respectfully allege and pray as follows:

I. INTRODUCTION

1. Highway Authority of Puerto Rico (Autoridad de Carreteras de Puerto Rico) and the Municipality of Caguas on or about 2004 converted a residential street into an expressway violating the Quiet Communities Act of 1978, Pub.L. No. 95-609, 42 USC 4901ss.¹

¹ See Quiet Communities Act of 1978, Pub.L. No. 95-609 - 42 USC 4901ss. §4910. Enforcement

...
(c) Actions to restrain violations

The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violations of section 4909(a) of this title.

(d) Orders issued to protect public health and welfare; notice; opportunity for hearing (1) Whenever any person is in violation of section 4909(a) of this title, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare.

2. This Complaint² request a Permanent Injunction, a hearing to certify actual or former residents and owners of 84 homes of the Villa Blanca Urban Community (Zafiro Street Converted to Jose Garrido Avenue in Caguas, Puerto Rico) who are suffering or have suffered severe physical and emotional damages, substantial economic losses for the violation or their Constitutional and Legal Rights as a Class for compensatory and pecuniary damages.

JURISDICTIONAL STATEMENT

3. This is a civil action filed by Nestor Rivera-Colon (hereinafter “Rivera-Colon” or “the Plaintiff”), as resident and neighbor of the Villa Blanca Urban Community in the Municipality of Caguas (hereinafter “Villa Blanca”), who on behalf of all residents of Villa Blanca filed a Notice of Intent to Sue³ (hereinafter “the Notice”) on April 1, 2016. Pursuant to the applicable

(2) Any order under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5.

(A) the Administrator of the Environmental protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this chapter which is not discretionary with such Administrator, or
(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under section 44715 of title 49 which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to restrain such person from violating such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

² This is the second Complaint, the first was CIVIL NO. 15-1048 (DRD) dismissed without prejudice on March 31st, 2016 for an involuntary error serving notice to the Federal EPA Administrator’s address in The Internet and not to his office.

³ See Quiet Communities Act of 1978, Pub.L. No. 95-609 - 42 USC 4901ss. §4910. Enforcement

(c) Actions to restrain violations

The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violations of section 4909(a) of this title.

(d) Orders issued to protect public health and welfare; notice; opportunity for hearing (1) Whenever any person is in violation of section 4909(a) of this title, the Administrator may issue an order specifying such relief as he determines is necessary to protect the public health and welfare.

(2) Any order under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5.

(A) the Administrator of the Environmental protection Agency where there is alleged a failure of such Administrator to perform any act or duty under this chapter which is not discretionary with such Administrator, or

law, if the condition described in the Notice is not solved within 60 days, complainant is entitled to file suit before this Honorable Court. The instant action is filed as a class action in representation of all current and past homeowners in Villa Blanca, their families and others who occupy or used to occupy or have abandoned homes, in Villa Blanca, who are, or have been suffering for an extraordinary, unreasonable, illegal, loud noise caused by the conversion of a Urban Community Street in a residential area into a Highway/Avenue without the Federal requirements and conditions established in the Quiet Community Act of 1978, as amended (Quiet Communities Act of 1978, Pub.L. No. 95-609 - 42 USC 4901ss for noise control contamination. A copy of that Notice is attached as Exhibit I and made part of this Complaint.

4. As this is a civil action brought pursuant to the laws and Constitution of the United States, this Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This Court also has supplemental jurisdiction over all claims arising under of the laws and Constitution of Puerto Rico pursuant to 28 U.S.C. § 1367. Venue is proper under 28 U.S.C. § 1391(b).

II. THE PARTIES

5. The Plaintiff is Rivera-Colon in his personal capacity as homeowner of a property in Villa Blanca and as representative and leader of a De Facto Community Association of the actual or former residents and owners of homes in Villa Blanca. Rivera-Colon formally requests to this Honorable Court to Certify actual or former residents and owners of homes in Villa Blanca, their families and others who occupy or used to occupy or have abandoned homes, in Villa Blanca, who are or have been suffering for an extraordinary, unreasonable, illegal, loud

(B) the Administrator of the Federal Aviation Administration where there is alleged a failure of such Administrator to perform any act or duty under section 44715 of title 49 which is not discretionary with such Administrator.

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to restrain such person from violating such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

noise caused by the conversion of a Urban Community Street into an Avenue without the Federal requirements and conditions established in the Quiet Community Act of 1978, 42 USC 4901 ss as amended.

6. The Defendants are the Puerto Rico Department of Transportation and Public Works (hereinafter "DTOP" for its acronym in Spanish), Puerto Rico Highway and Transportation Authority (hereinafter "ACT" for its acronym in Spanish), represented by its Secretary and Director, respectively, Eng. Miguel A. Torres Diaz in his personal and official capacities for pecuniary and compensatory damages and for equitable relief;

7. The Defendants also include the Municipality of Caguas, represented by its Mayor, Hon. William Miranda Torres, in his personal and official capacity as Mayor of the Municipality of Caguas, for equitable, pecuniary and compensatory relief;

8. As Necessary Parties or Parties in Interest: Local Quality Environmental Board (hereinafter the "LQA" for its acronym in Spanish), represented by its President Laura Vélez; the Justice Department of Puerto Rico, represented by its Secretary, Hon. César Miranda Rodríguez, in his official capacity, as representative of the DTOP and the ACT; the United States Environmental Protection Agency (hereinafter the "EPA"), represented by its Administrator, Mrs. Gina McCarthy and its Regional Administrator for Region 2, Mrs. Judith A. Enck; and the United States District Attorney for Puerto Rico, Mrs. Rosa Emilia Rodríguez, are included as indispensable and/or otherwise interested parties.

9. Defendants X, Y, and Z are still unidentified insurance companies with coverage for liability for any Defendant; and Defendants A, B, and C are as yet unidentified persons responsible for civil rights violations against Plaintiffs.

III. STATEMENT OF FACTS

10. Villa Blanca was constructed about 60 years ago and was the second urban community

in Caguas, Puerto Rico, and the original Model Design for Urban Communities in Puerto Rico, as described by its residents.

11. On or about 2004, the ACT, a semi-public entity with lawful authority as a private entity, and an administrative division of the DTOP, with the approval and collaboration of the Municipality of Caguas, planned, designed and worked to build a road to connect the Puerto Rico Toll Expressway, known as Highway 30, with Puerto Rico Road #1 in Caguas. This was later extended to include a connection with Puerto Rico Expressway #22. The design called for the widening of Zafiro Street in the Municipality of Caguas, then a very narrow street which cut through the middle of Villa Blanca, to be used as the connecting road between the three aforementioned highways. As part of the original plan, around 84 houses in Villa Blanca would be expropriated.

12. Shortly thereafter, work on the widening of Zafiro Street started and ultimately finished. Zafiro Street became José Garrido Avenue (hereinafter “Zafiro/Garrido Avenue”), and it was opened to connect Highways 1, 22 and 30. This caused the traffic cutting through Villa Blanca to increase in both volume and weight. After the change, now an exponentially greater amount of traffic passed through the middle of Villa Blanca and those vehicles now included trucks and other heavy-load vehicles. In fact, Zafiro/Garrido Avenue is now one of the most used streets in the Municipality. However, the 84 houses located in Zafiro/Garrido Avenue were never expropriated.

13. Rivera-Colón and neighbors have been filing grievances (or administrative complaints) at the Federal EPA, Local Environmental Board, ACT, DTOP and the Municipality of Caguas since work on Zafiro/Garrido Avenue began and before their front street became one of the most used avenues of Caguas. Complaints and requests for administrative intervention have also been filed before the JCA and on March 12, 2012, the EPA and the Puerto Rican Ombudsman Office,

all without any positive results. Complainants have been given numerous excuses and promises to study and address the situation, but no results have been rendered and this noxious and toxic situation still continues today.

14. Villa Blanca had a controlled-access entrance through Acerina Street, and Zafiro Street had an entrance to the Plaza Villa Blanca Shopping Center that used to be closed during the night, from 9:00pm to 6:00am. This helped maintain Villa Blanca as a peaceful and quiet residential community where residents could live in tranquility and children could play in front of their houses. But when the ACT, the DTOP and the Municipality of Cagnas opened an entrance directly into Zafiro Street and made the conversion to José Garrido Avenue, sound decibels that were well within the acceptable parameters under the Quite Communities Act of 1978, as amended, of 45 decibels jumped to 67-85 decibels. This affected the homes at both sides of what was a narrow street and now was the Zafiro/Garrido Avenue. Residents went from living in a peaceful environment to an unbearable noise that forced neighbors to close the front part of their homes, and even then, it is almost impossible to undertake normal activities such as having conversations, hear the radio, watch television, or even sleep.

15. Aside for the uncontrollable noise, the residents have problems with their entrance, parking area and some with pluvial metal covers which cause additional noise and vibrations inside their homes. This situation is even worse at night time when a restful sleep is almost impossible to achieve. This situation has also caused the Plaintiffs' homes' values to plummet.

16. The families that had bought their homes on a peaceful residential community and who make up the proposed class in the instant case have been requesting the ACT, the DTOP and the Municipality of Cagnas to close the access to the small Zafiro/Garrido Avenue, or to expropriate their homes. This has lowered the value of their homes, some have been obliged to sell for a fraction of the former value or abandon their homes, and all have suffered substantial emotional

and mental sufferings, substantial economic losses, incurred in construction expenses to try to reduce the noises, and expenses for illnesses and emotional treatment.

17. The EPA and the JCA have reviewed the situation, undertaken many noise studies and have established that the Villa Blanca Plaintiffs confront an unbearable noise condition 24 hours a day and have done so continuously for some 10 years. Plaintiffs' requests for aid to the Municipal Government of Caguas, the Governor's Office, the Local Legislature, the ACT, the DTOP, the Ombudsman Office and other public entities have all been fruitless. These entities have all at one time or another expressed the need to do something, but have expressed that they lack either the authority or the money to provide any help or expropriate the properties.

18. Plaintiffs appear before this Honorable Court as a last resort claiming violations under the Quiet Communities Act of 2078, as amended⁴, and a violation of their constitutionally protected rights against infringements to their life, liberty and/or property without due process.

19. Plaintiffs also request supplemental jurisdiction for local constitutional rights and Civil Code rights to redress for damages.

20. Plaintiffs request a Preliminary and Permanent Injunction to close the Zaifro/Garrido Avenue except for Villa Blanca residents and related services or to expropriate their homes at a

⁴ See Quiet Communities Act of 1978, Pub.L. No. 95-609
...
§4911.

Citizen suits

(a) Authority to commence suits

Except as provided in subsection (b) of this section, any person (other than the United States) may commence a civil action on his own behalf -

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any noise control requirement (as defined in subsection (e) (1) of this section), or (2) against

market value price; and compensation of \$200,000.00 per home from Defendants for damages.

21. Plaintiffs request to the Honorable Court to order Defendants to appear for a Preliminary Injunction Hearing and an on-site inspection within a short time to explain why they have since about 2004 designed the use of a residential street and convert it into an expressway, why they have continuously permitted the violation of the applicable Federal Law by allowing the loud, excessive, unreasonable and illegal noise level in Villa Blanca and to explain why Defendants have not complied with the applicable Federal Law.

22. Plaintiffs request the Honorable Court to certify as a class the current and former residents, owners and neighbors of Villa Blanca and the Zafiro/Garrido Avenue, to be represented by Rivera-Colon and other members of the class; and confirm that Plaintiff's attorneys have the sufficient experience and resources to represent said class.

23. Plaintiffs allege a violation of their constitutional rights against the infringement of their property without Due Process and Equal Protection rights under the Constitution of the United States; as well as under the laws and Constitution of Puerto Rico, and pray equitable relief in the form of a return to the previous condition of the Zafiro/Garrido Avenue or in the alternative expropriation for fair market value, and legal relief in the form of economic and punitive damages, pursuant to the Quiet Communities Act of 1978, Pub.L. No. 95-609 - 42 USC 4901ss.

**IV. FIRST CAUSE OF ACTION – VIOLATIONS TO
FEDERAL LAW QUIET COMMUNITIES ACT OF 1978,
AS AMENDAD, PUBL. NO. 95-609 AND
CONSTITUTIONAL RIGHTS**

24. All previous factual allegations are incorporated heretofore.

25. The construction of what amounts to be an expressway through a residential area such as Villa Blanca is illegal under the Federal Quiet Communities Act of 1978, Pub.L. No. 95-609.

26. Black letter and case law has long established that government bodies and/or officials

cannot construct or permit excessive noise levels on residential areas as Defendants have done to Plaintiffs.

27. It is clear from the evidence that the Plaintiffs' violation of their noise level right not to be as excessive on their residential area to be illegal according to Federal Law. By subjecting Plaintiffs to adverse environmental excessive noise condition in their homes, Defendants have acted contrary to the applicable Federal statute.

**V. SECOND CAUSE OF ACTION – VIOLATIONS TO DUE
PROCESS RIGHTS UNDER THE CONSTITUTION OF
THE UNITED STATES**

28. All previous factual allegations are incorporated heretofore.

29. Plaintiffs allege a violation of their constitutional rights against the infringement of their property without Due Process and Equal Protection of the law under the Constitution of the United States, as well as under the laws and Constitution of Puerto Rico.

VI. THIRD CAUSE OF ACTION – INJUNCTIVE RELIEF

30. All previous factual allegations are incorporated heretofore.

31. Plaintiffs pray permanent equitable relief in the form of a return to the previous condition of the Zafiro/Garrido Avenue or in the alternative expropriation for fair market value, and legal relief in the form of economic and punitive damages, pursuant to the Quiet Communities Act of 1978, Pub.L. No. 95-609- 42 USC 4901ss.

**VII. FOURTH CAUSE OF ACTION – TORT ACTION
UNDER PUERTO RICO LOCAL LAW**

32. All previous factual allegations are incorporated heretofore.

33. Defendants' actions also constitute a violation of Plaintiffs' rights secured by the Puerto Rico Constitution.

34. Defendants' actions also constitute violations of Puerto Rico's Environmental laws, and Articles 1802 and 1803 of the Civil Code, § 5141-5142 of Title 31.

VIII. JURY TRIAL

35. All previous factual allegations are incorporated heretofore.

36. Plaintiffs request a jury trial.

IX. PRAYER FOR RELIEF

37. All previous factual allegations are incorporated heretofore.

38. Wherefore, Plaintiffs request damages as described should be compensated for an amount no less than \$200,000.00 for every home to be distributed for their owners and/or actual and/or former residents; and that equitable relief be granted in the form of a return to the conditions before Zafiro Street became José Garrido Avenue or that their homes be expropriated and paid a market value that has been appraised at \$183,000.00 per home plus \$40,000.00 per home to be distributed for their owners and actual or former residents

39. The Plaintiffs request the following relief, jointly and severally against all Defendants:

- a. That this Court determine and declare that the actions by all defendants were in violation of the Constitution and laws of the United States and of Puerto Rico;
- b. Compensatory damages and punitive damages which request for compensation is made up of the following amounts:
 - i. \$100,000.00 for every home to be distributed for their owners and actual or former residents. Or their homes expropriated and paid a market value that have been appraised at \$183,000.00 per home plus \$40,000.00 per home to be distributed for their owners and actual or former residents;
 - ii. Punitive damages in excess of \$20,000.00 for every home to be

distributed for their owners and actual or former residents.

- c. Equitable relief in the form of a permanent injunction ordering Defendants to reinstate the residential condition that Plaintiffs had before the design and conversion of their residential area road to an expressway with excessive and illegal noise levels constructing entrance control to permit local use by residents only as was before until further legal measures may be taken;
- d. And ordering Defendants to refrain from further engaging in adverse actions to affect Plaintiffs environmental, property, liberty/life and pursue happiness rights;
- e. Attorneys' fees, costs and litigation expenses incurred in connection to this action pursuant to applicable statutes.⁵
- f. All applicable interests, including pre- and post- judgment interest.
- g. That the Court retain jurisdiction over this action in order to ensure compliance with any decree issued by this court;
- h. Any such other and further relief as the Court may deem just and proper

⁵ SEC. 12 [42 U.S.C. 4911] Citizen Suits.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

SEC. 12 [42 U.S.C. 4911] Citizen Suits.

(B) ...

The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to restrain such person from violating such noise control requirement or to order such Administrator to perform such act or duty, as the case may be.

SEC. 11 [42 U.S.C. 4910] Enforcement.

(a)...

(b) For the purpose of this section, each day of violation of any paragraph of section 10(a) shall constitute a separate violation of that section.

(c) The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain any violation of section 10(a) of this Act.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 8th day of June 2016.

s/Francisco J. González-Magaz
FRANCISCO J. GONZÁLEZ-MAGAZ
USDC No. 223907

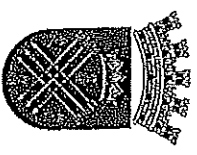
s/Francisco R. González-Colón
FRANCISCO R. GONZÁLEZ COLON
USDC No. 116410

s/Enrique A. Báez Godínez
ENRIQUE A. BÁEZ GODÍNEZ
USDC No. 214909

FRANCISCO R. GONZÁLEZ LAW OFFICE
1519 PONCE DE LEÓN AVE.
FIRST FEDERAL BLDG. SUITE 805
SAN JUAN, P.R. 00909
Tel. (787) 723-3222 FAX 722-7099



MUNICIPIO AUTÓNOMO DE CAGUAS
Secretaría de Infraestructura, Ornato y Conservación
Solicitud de Servicio



Número Control 65373 Núm Control Externo Prioridad Solicitud Regular Fecha 26-Oct-10

Nombre: Nestor Rivera Colón Tel. Hogar

Dirección: Avenida José Gárrido # 17 Tel. Trabajo

Tel. Celular

Pueblo: Caguas Zip Code 00725

Barrio: Pueblo

Sector: Urb. Villa Blanca

Departamento: Obras Públicas

División: Sistemas de Aguas

Servicio: Contrucción e Instalación de Parrillas

Tipo Escombro:

Observaciones: Alcantarilla de nuevo se salio de un lado y cada vez que transitan los vehículos hace mucho ruido. Es carretera principal. Ciudadano no tiene número de teléfono.

Acción Tomada: Indica el Sr.Estades que esta solicitud fue completada. 4/abr/12 (wira)

Responsable: Oscar Colón

Entrevistado: Ámbar Feliciano Mercado

Solicitud: Personal

Visitado:

Resuelto: 04-Apr-12

Referido Comp:

Aprobado por:

Satisfacción:

Información de Asfalto

Toneladas: 0

Caso Especial:

Aprob Trab Social:

Modelo Colaborativo:

No Cualifica:

INFORMACIÓN DE CONTACTO

| | |
|---|-------------------------------------|
| Nombre: Nestor Rivera-Colón | Reportados por: Nestor Rivera-Colón |
| Referido: Ciudadano | |
| Correo Electrónico: | Origen del Caso: Visita |
| Teléfono(s): 787-645-9025 (Móvil) | |
| Nombre Contacto Alt.: Blanca Colón | |
| Teléfono Contacto Alt.: 787-743-4270 | Relación Contacto Alt.: Madre |
| Dirección Física (Cont.): 17 Ave. Jose Garrido Villa Blanca CAGUAS, PR, 00725 | Barrio: Pueblo |
| | Sector: Villa Blanca |
| Dirección Postal (Cont.): 17 Ave. Jose Garrido Villa Blanca CAGUAS, PR, 00725 | |

DETALLES DEL CASO

| | |
|---|-----------------------------------|
| Título: Svc Req: Investigación general | |
| Tipo de Caso: Sol. Serv. | Reportado: 1/11/2013 8:34 AM |
| Estado: Activo | Fecha de Resolución: |
| Prioridad: Normal | Propietario: Conservación de Vías |
| Referencia: | Trabajado por: |
| Descripción del Caso: Ciudadano solicita se cambie la parilla por tubo soterrado ya que la soldadura que se la ha hecho varias veces a la parilla no ha resuelto el problema. Se repara y vuelve a romperse. Esto molesta cada vez que pasan los carros porque hace mucho ruido. De esto se dialogó anteriormente con Austin Martinez según alega el ciudadano | |

UBICACIÓN DEL SERVICIO

| | |
|--|----------------------|
| Dirección: 17 Ave. Jose Garrido Villa Blanca CAGUAS, PR, 00725 | Barrio: Pueblo |
| | Sector: Villa Blanca |
| Descripción de la Ubicación: antes calle Sañiro | |

ACTIVIDAD DE SERVICIO**Servicio:** Investigación General

Descripción del Servicio: Ciudadano solicita se cambie la parrilla por tubo soterrado ya que la soldadura que se le ha hecho varias veces a la parrilla no ha resuelto el problema. Se repara y vuelve a romperse. Esto molesta cada vez que pasan los carros porque hace mucho ruido. Son cinco Parrillas en la misma calle.
De esto se dialogó anteriormente con Austin Martinez según alega el ciudadano

Estado: Pendiente**Inicio Programado:****Prioridad:** Normal**Finalización Programada:****Propietario:** Conservación de Vías**Estimado de Inicio:** 1/30/2013 11:00 AM 1/30/2013 11:00 AM**Trabajado por:****Estimado de Completado:** 02/12/2013 10:00:00 a.m.**Costo:****Inicio del Servicio:** 01/11/2013 08:39:00 a.m.**Cantidad Pagada:****Servicio Completado:****Contacto Referido:** Néstor Caballero-Velázquez**Fecha y Hora de Referido:** 1/30/2017 11:25 AM 1/30/2017 11:25 AM

INFORMACIÓN DE CONTACTO

| | |
|---|-------------------------------------|
| Nombre: Nestor Rivera-Colón | Reportados por: Nestor Rivera-Colón |
| Referido: Ciudadano | |
| Correo Electrónico: | Origen del Caso: Teléfono |
| Teléfono(s): | |
| Nombre Contacto Alt.: Blanca Colón | Relación Contacto Alt.: Madre |
| Teléfono Contacto Alt.: 787-743-4270 | |
| Dirección Física (Cont.): 17 Ave. Jose Garrido Villa Blanca CAGUAS, PR, 00725 | Barrio: Pueblo |
| | Sector: Villa Blanca |
| Dirección Postal (Cont.): 17 Ave. Jose Garrido Villa Blanca CAGUAS, PR, 00725 | |

DETALLES DEL CASO

| | |
|--|--|
| Título: Svc Req: Investigación general | |
| Tipo de Caso: Sol. Serv. | Reportado: 1/12/2012 9:17 AM |
| Estado: Resuelto | Fecha de Resolución: 11/8/2012 3:48 PM |
| Prioridad: Normal | Propietario: Conservación de Vías |
| Referencia: | Trabajado por: Aida Velazquez |
| Descripción del Caso: | |

UBICACIÓN DEL SERVICIO

| | |
|---|----------------|
| Dirección: Ave. Jose Garrido #17 Villa Blanca CAGUAS, PR, 00725 | Barrio: Pueblo |
| | Sector: |
| Descripción de la Ubicación: | |

ACTIVIDAD DE SERVICIO

Servicio: Investigación General
Descripción del Servicio:
Estado: Cerrado **Inicio Programado:**
Prioridad: Normal **Finalización Programada:**
Propietario: Conservación de Vías **Estimado de Inicio:** 02/03/2012 09:00:00 a.m.
Trabajado por: Wilma Rosado **Estimado de Completado:** 21/7/2012 9:00 AM 21/7/2012 9:00 AM
Costo: **Inicio del Servicio:** 01/12/2012 09:30:00 a.m.
Cantidad Pagada: **Servicio Completado:** 11/01/2012 10:22:00 a.m.

Contacto Referido: **Fecha y Hora de Referido:**

Nota 1: Creado por - Aida Velazquez **Fecha Creado -** 11/8/2012 3:28 PM
 Modificado por - Aida Velazquez **Fecha Modificado -** 11/8/2012 3:46 PM

Ciudadano informa que el servicio se realizó y que ya han soldado como cinco veces la alcantarilla. Pero el problema que esta pasando es que al momento que pase un camión se rompe nuevamente. Indica que el lugar queda a solo 18 pies de distancia de la ventana de su cuarto y cada vez que pasan los carros, son cuatro veces que hace ruido. Alega que lo que se contemplaba era eliminarla y canalizar el agua de otra forma pero no se ha hecho nada. No es el unico que esta pasando por esta situación, que hay mas vecinos. Alega que el Sr. Estados tiene conocimiento.
 **Atención Ciudadana se comunica con enlace W. Rosado. Entoces informa que proceda al cierre ya que se realizó el servicio que se tendrá que evaluar la situación con otras alternativas. El ciudadano se comunicara con la OPM para orientación y contemplara generar nueva solicitud según le oriente OPM

Nota 2: Creado por - Nilmarie Cartagena **Fecha Creado -** 11/8/2012 9:46 AM
 Modificado por - Nilmarie Cartagena **Fecha Modificado -** 11/8/2012 9:46 AM

Atención Ciudadana llama para medir satisfacción y eficiencia de servicio. Se dejó mensaje con la mamá del ciudadano.

Nota 3: Creado por - Wilma Rosado **Fecha Creado -** 11/11/2012 10:22 AM
 Modificado por - Wilma Rosado **Fecha Modificado -** 11/11/2012 10:22 AM

Nota 4: Creado por - Wilma Rosado **Fecha Creado -** 11/11/2012 10:21 AM
 Modificado por - Wilma Rosado **Fecha Modificado -** 11/11/2012 10:21 AM

Razón de Cierre: Servicio Completado
 Comentarios: Indica el Sr. Estados que esta solicitud fue completada.
 Indica el Sr. Estados que esta solicitud fue completada.

Nota 5: Creado por - Aida Velazquez **Fecha Creado -** 2/29/2012 12:15 PM
 Modificado por - Aida Velazquez **Fecha Modificado -** 2/29/2012 12:15 PM

Ciudadano visita para dar seguimiento y alega que es insoportable la situación. Solicita pronta acción.

Nota 6: Creado por - Nilmarie Cartagena **Fecha Creado -** 11/12/2012 9:30 AM
 Modificado por - Nilmarie Cartagena **Fecha Modificado -** 11/12/2012 9:47 AM

Ciudadano solicita se investige una alcantarilla que esta localizada frente a la residencia suya y de su madre. Ciudadano informa que en el día de hoy fue a SIOC y le indicaron en la recepción que ya ellos no toman las solicitudes de servicio que debería venir a la Antigua Casa Alcaldía que es en donde se están tomando ahora. Ciudadano alega que la patrilla que la cruza la calle completa. Alega que cada vez que pasa un vehiculo, camion o motor suena constantemente y es una área altamente transitada. Al abrir la extensión de la avenida Garrido esta situación se ha agravado mas. Ciudadano alega que hablo con el señor Alcaldé y le informo que asigno un grupo de trabajo por el trafico vehicular. Alega también que hablo con la Ing. Alcántara y le indicaron que se consiguiera Ear Plot y alega también que hablo con la directora de transito.

ACTIVIDADES

| Asunto | Tipo de Activ. | Estado | Propietario | Fecha de Creación |
|--|----------------|------------|-----------------------|---------------------|
| Actividad de Servicio Completada: Investigación general: C-03908-X5J6 | email | Completado | Respond Administrator | 11/11/2012 10:22 AM |

Notas:

| | | |
|-----------------|--|--|
| Nota 1: | Creado por - Nydia Vazquez Modificado por - Nydia Vazquez | Fecha Creado - 4/4/2017 11:21 AM Fecha Modificado - 4/4/2017 11:21 AM |
| | Ciudadano visita la oficina para seguimiento de su caso. Informa que urgentemente interesa hablar con Director de OPM. El Director no se encuentra y se le deja mensaje al Director. | |
| Nota 2: | Creado por - Nydia Vazquez Modificado por - Nydia Vazquez | Fecha Creado - 3/27/2017 9:09 AM Fecha Modificado - 4/4/2017 11:13 AM |
| | Ciudadano llama para seguimiento de su caso. Se le informa que el caso fue referido al Director, Ing. José J. Rivera para su evaluación. | |
| Nota 3: | Creado por - Nydia Vazquez Modificado por - Nydia Vazquez | Fecha Creado - 1/30/2017 11:39 AM Fecha Modificado - 1/30/2017 11:39 AM |
| | La persona trabajando la actividad de servicio cambio a: En Proceso | |
| Nota 4: | Creado por - Nydia Vazquez Modificado por - Nydia Vazquez | Fecha Creado - 1/30/2017 11:37 AM Fecha Modificado - 1/30/2017 11:38 AM |
| | Ciudadano llama para seguimiento de su caso y se le informa que el caso se enviara al Inspector que trabaja con las parillas para que evalúe el caso. Ciudadano insiste en que quiere hablar con la Ing. Alcantara y se le informa que se dejara mensaje. | |
| Nota 5: | Creado por - Aida Velazquez Modificado por - Aida Velazquez | Fecha Creado - 5/27/2016 11:32 AM Fecha Modificado - 5/27/2016 11:32 AM |
| | Ciudadano visita en seguimiento. Se le informa estatus, referente a las ultimas dos notas. Ciudadano indica que Jorge Estados no se ha comunicado con el ciudadano. | |
| Nota 6: | Creado por - Milagros Carrasquillo Modificado por - Milagros Carrasquillo | Fecha Creado - 7/7/2014 9:07 AM Fecha Modificado - 7/7/2014 9:07 AM |
| | Ciudadano llamo dando seguimiento a su solicitud se le indicó que se entregará la solicitud al Sr. Estados para que se comuniqué con el peticionario para que le ofrezca información al respecto. | |
| Nota 7: | Creado por - Nydia Ocasio Modificado por - Nydia Ocasio | Fecha Creado - 12/12/2013 9:57 AM Fecha Modificado - 12/12/2013 9:57 AM |
| | El Sr. Jorge Estados señala que el Sr. Miguel Vega visitó el lugar y determinó que próximamente se estará haciendo un proyecto de levantamiento de parillas selladas. | |
| Nota 8: | Creado por - Lilliam Schettini Modificado por - Lilliam Schettini | Fecha Creado - 12/12/2013 9:48 AM Fecha Modificado - 12/12/2013 9:48 AM |
| | Ciudadano solicita se cambie la parilla por tubo soterrado ya que la soldadura que se la ha hecho varias veces a la parilla no ha resuelto el problema. Se repara y vuelve a romperse. Esto molesta cada vez que pasan los carros porque hace mucho ruido. Son cinco Parillas en la misma calle. | |
| Nota 9: | Creado por - Aida Velazquez Modificado por - Aida Velazquez | Fecha Creado - 12/12/2013 9:31 AM Fecha Modificado - 12/12/2013 9:31 AM |
| | De esto se dialogó anteriormente con Austin Martínez según alega el ciudadano | |
| Nota 10: | Creado por - Nilmarié Cartagena Modificado por - Nilmarié Cartagena | Fecha Creado - 5/28/2013 11:09 AM Fecha Modificado - 5/28/2013 11:09 AM |
| | Ciudadano llama en seguimiento. Se transfere llamada a la dependencia para mas información. | |
| Nota 11: | Creado por - Wilma Rosado Modificado por - Wilma Rosado | Fecha Creado - 3/12/2013 2:12 PM Fecha Modificado - 3/12/2013 2:12 PM |
| | Ciudadano llama en seguimiento. | |
| Nota 12: | Creado por - Aida Velazquez Modificado por - Aida Velazquez | Fecha Creado - 3/12/2013 2:12 PM Fecha Modificado - 3/12/2013 2:12 PM |
| | Ciudadano llama en seguimiento. Se le brindó la esx. de enlaces 3321 y 3325 | |
| Nota 13: | Creado por - Aida Velazquez Modificado por - Aida Velazquez | Fecha Creado - 1/11/2013 8:51 AM Fecha Modificado - 1/11/2013 8:51 AM |
| | Ciudadano solicita se cambie la parilla por tubo soterrado ya que la soldadura que se la ha hecho varias veces a la parilla no ha resuelto el problema. Se repara y vuelve a romperse. Esto molesta cada vez que pasan los carros porque hace mucho ruido. De esto se dialogó anteriormente con Austin Martínez según alega el ciudadano | |

ACTIVIDADES

| Asunto | Tipo de Activ. | Estado | Propietario | Fecha de Creación |
|--|----------------|------------|-----------------------|--------------------|
| La actividad de servicio: Investigación general, no se ha completado. C-07624-C6R5 | email | Completado | Respond Administrator | 2/12/2013 10:00 AM |

Notas:
