

April 17, 2026

Sent via U.S. Mail:

City of Dyersville City Council
Dyersville City Hall
340 1st Avenue East
Dyersville, IA 52040

Jeff Jacque
Dyersville Mayor
201 5th Avenue SE
Dyersville, Iowa 52040

Norm Pottebaum
Dyersville City Council, At Large
1184 Woodland Dr
Dyersville, Iowa 52040

Mike English
Dyersville City Council, At Large
922 8th Street SW
Dyersville, Iowa 52040

Scott DeSousa
Dyersville City Council, Ward 1
804 6th Ave SW
Dyersville, Iowa 52040

Mark Singsank
Dyersville City Council, Ward 2
542 Country Club Ct
Dyersville, Iowa 52040

Mike Oberbroeckling
Dyersville City Council, Ward 3
2015 Castle Hills Drive SE
Dyersville, Iowa 52040

George Davis
Dyersville City Attorney
Dyersville City Hall
340 1st Avenue East
Dyersville, IA 52040

RE: Nuisance – Lumber Specialties, 1700 Beltline Road, Dyersville, Iowa

Dear Mayor Jacque, Council Members, and Mr. Davis:

I represent Mona Westermeyer and Peter Adams who live at 1304 First Avenue East, Dyersville, Iowa, 52040 (the “Westermeyer Family Home”):



I contacted Lumber Specialties and U.S. LBM Holdings, LLC (Lumber Specialties' parent company) on behalf of my clients in June 2025 regarding the fact that Lumber Specialties' 24-hour heavy industrial activities in my clients' backyard has caused them to lose the ability to use and enjoy the Westermeyer Family Home. My June 2025 demand letter is attached here. The letter explains how my clients' family purchased the Westermeyer Family Home long before Lumber Specialties expanded their operations—per the allowance of the City—and how living next to the facility is intolerable.

We received a written reply from Carin Brock of Lumber Specialties in August 2025, we replied, and we received another response in late September 2025. In the end, Lumber Specialties agreed to abate the nuisance by planting a few 6- to 10-foot evergreen trees. They claimed to have made “lighting improvements” and addressed my clients’ “sound concerns,” but my clients saw no difference in the offensive lighting or noise. Lumber Specialties refused to construct a solid fence around the facility or any housing or sound barrier around the dust collector/vacuum¹ that clanks loudly at all hours.

We have recently learned that Lumber Specialties hired Terracon in about August 2025 to conduct a “community noise monitoring report.” Although Lumber Specialties uses that report to claim that the facility is within sound limits set by zoning requirements and ordinances, the report shows otherwise. The report measured noise in decibels over a 24-hour period. Thus, rather than counting the number of times the noise exceeded limits, Terracon relied on the “equivalent sound level” or L_{eq} number, which is the “average sound energy” over a 24-hour period of time. Dyersville Ordinance No. 649—which was the ordinance that rezoned two parcels for Lumber Specialties on March 17, 1997—includes special restrictions that run with the land and specifically provides that the sound level “shall not exceed 55 decibels.”²

The Terracon report shows that the sound level at the Lumber Specialties' property line near the Westermeyer Family Home constantly exceeds 55 decibels, often exceeds 65 decibels, regularly hovers between 60 and 70 decibels for several hours in a 24-hour period, and spikes above 80 decibels at about a three-hour interval. The report shows that the monitor that was located nearest to the Westermeyer Family Home (Monitor #3) was placed along the fenceline between Beltline Road and Lumber Specialties and West of my clients' property line (not directly behind their home). It registered an L_{eq} of 60 decibels and a maximum sound level of 97.8 decibels that

¹ I referred to the dust collector/vacuum in my first letter to Lumber Specialties variously as a “silo/tower structure” and a “tumbling or chipping machine that is housed in a tall, metal silo-like tower structure.” Lumber Specialties has told us the offensive silo/tower is a dust collector or vacuum.

² This Ordinance subsection applies to “the interface” between Parcel 0732127027 and Parcel 0732127028, not Parcel 0732127006 which is nearest to the Westermeyer Family Home. But, if the City was concerned about exceeding 55 decibels at that interface, it also should be concerned about exceeding 55 decibels at the point where Parcel 0732127006 meets Beltline Road.

occurred at 4:50 a.m. Thus, the Terracon report does not support Lumber Specialties' claim that the facility's noise is within the set requirements. Moreover, noise is a 24-hour per day nuisance to my clients, and it is objectionable despite what the report provides.

As you may remember, my clients first contacted Lumber Specialties in October 2022 and raised these same concerns. Lumber Specialties removed trees and grading began in April 2023. My clients first contacted the City Council in September 2023 regarding these concerns, as well as concern that Building Permit No. 22-2240 (Store SPE USLBM 2017-6LLC for 1700 Beltline Road) was not properly noticed to the public. They sent another letter to Robert Stewart at Lumber Specialties in October 2023. No action was taken by Lumber Specialties or the City Council in response to these contacts.

We are aware that my clients' neighbors, the Bockenstedts (living at 1146 3rd Ave NE), have retained Brian Fagan at Simmons Perrine to represent them. Lumber Specialties has responded similarly to the Bockenstedts' demands by refusing to agree to build a retention/detention pond, install a fence, or install a sound barrier on the dust collector/vacuum.

Lumber Specialties' response is inadequate. The light, noise, and dust nuisances have not been abated. The banging, hammering, clanking, truck traffic noises, and other noises continue to wake my clients up in the middle of the night, and the offensive lights shine brightly into the windows of the Westermeyer Family Home at all hours. They are unable to use their backyard on most days, and they are forced to keep their windows closed tightly all times of the year to keep the dust and noise out. The elderly Boeckenstedts are similarly suffering, but they also have drainage issues and garbage in their yard as a result of the operations at Lumber Specialties.

It is our understanding that the Lumber Specialties' facility is zoned I-2 Industrial which is the middle level of Dyersville's three industrial zoning tiers. According to the City Code of Ordinances Chapter 165, that tier is intended "for the location of industrial uses with relatively limited environmental effects." Dyersville Code of Ordinances 165.05.11(A)(x) (I-2 Mixed Industrial District). It further states that I-2 Districts are "designed to provide appropriate space and regulations to encourage good quality industrial development *that is buffered from lower intensity uses when necessary*["].” *Id.* (emphasis added). The Code of Ordinances states that the City "includes buffering requirements to reduce incompatibility" with "lower-intensity surrounding land uses." *Id.* 165.05.11(A)(xi). But, unfortunately, appropriate buffering has not occurred as to Lumber Specialties. The activity and sound of the dust collector is one example of how the facility's use conflicts with the surrounding properties that are zoned for residential use. Another example is the traffic from the downtown railroad spur: Parades of fork lifts and loaded trucks zoom down the road and cross the highway carrying loads of lumber.

It appears Lumber Specialties represented its expansion to be a "warehouse." *See* City of Dyersville Resolution No. 22-25 (dated 02/17/2025); City of Dyersville Resolution No. 63-24 (dated 11/4/2024); City of Dyersville Resolution No. 59-25 (dated 10/07/2024). Clearly, it is not operating as a warehouse. The Lumber Specialties facility is operating like a manufacturing

facility which operates 24-hours per day, beginning on Sunday late afternoon/early evening to late afternoon/early evening on Friday. It is a nuisance.

My clients are hopeful that their City Council will work to address the nuisances that they and many of their neighbors are faced with since Lumber Specialties expanded its manufacturing operation. We suggest that you work to set up a public meeting – perhaps with a mediator – to begin to address the issues that face your citizens.

My clients continue to expressly reserve all rights and remedies at law or in equity.

Thank you for your time. I look forward to hearing from you by no later than May 1, 2026.

Sincerely,



Teresa B. Morio
TBM@Shuttleworthlaw.com

Enc.

Cc: Brian J. Fagan, Managing Partner
Simmons Perrine PLC
bfagan@sp.law

Carin Brock, VP & Deputy General Counsel
US LBM Holdings, LLC
Carin.brock@uslbn.com

COPY

**Shuttleworth
& INGERSOLL***
ATTORNEYS AT LAW • ESTABLISHED 1854

June 23, 2025

Sent via Certified U.S. Mail:

US LBM Holdings, LLC
Attn: Manish Shanbhag, Executive VP and
Chief Legal Officer
Attn: Charlie Bradburn, VP Operations,
Midwest Region
2077 Convention Center Concourse
Suite 125
Atlanta, GA 30337

Sent via Certified U.S. Mail:

Lumber Specialties - Dyersville
1700 Beltline Road
PO Box 38
Dyersville, IA 52040

Sent via email: bstewart@lbrspec.com

Lumber Specialites – Dyersville
Attn: General Manager Robert Stewart

RE: Nuisance – Lumber Specialties, 1700 Beltline Road, Dyersville, Iowa

Messrs. Shanbhag, Bradburn, and Stewart:

I represent Mona Westermeyer and Peter Adams who live at 1304 First Avenue East, Dyersville, Iowa, 52040 (the “Westermeyer Family Home”):



Since the Lumber Specialties manufacturing facility was expanded in late 2022 through mid-2023, Mona and Peter have lost the ability to use and enjoy both the inside and outside of the Westermeyer Family Home due to the interfering noises and lights that emanate from the facility twenty-four hours per day, five days per week. Mona and Peter have been unable to spend time outside of the Westermeyer Family Home or enjoy fresh air through open windows

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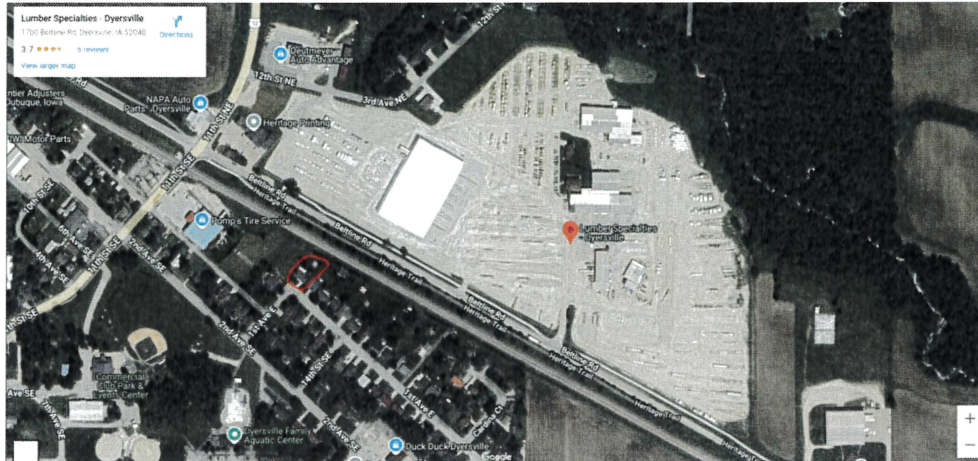
due to the constant banging of a tumbling or chipping machine that is housed in a tall, metal, silo-like tower structure; increased road noise from additional truck and forklift traffic on Beltline Road; the screech of occasional chain saws; and the beeps of forklifts that zoom about the property day and night. When Lumber Specialties is operating, decibel readings from near the Westermeyer Family Home have been recorded as high as eighty decibels. As you likely know, exposure to sounds at or above eighty-five decibels can cause hearing loss and OSHA requires that employees who are exposed to an eight-hour-time-weighted average of eighty-five decibels or greater are provided with hearing protection.

Although the noises are mostly absent between Friday at 6:00 p.m. to Sunday at 6:00 p.m., the lot lights are never off. The building lights blaze into Mona and Peter's backyard from dusk to dawn, and they shine into their windows. Not only can they not enjoy a morning cup of coffee or a summer evening on the patio, they cannot have friends over to enjoy time on the patio during Lumber Specialties' work hours due to the noise.

The facility is clearly a nuisance, as that term is defined by Iowa's statute and common law. *See* Iowa Code §§ 657.1, 657.2; *Vagts v. N. Nat. Gas Co.*, 8 N.W.3d 501 (Iowa 2024); *Miller v. Rohling*, 720 N.W.2d 562 (Iowa 2006). As you likely know, the nuisance standard in Iowa is a "normal person standard" or objective standard. We believe a normal person living in Dubuque County, Iowa, would find that the invasion caused by Lumber Specialties to Mona and Peter is an invasion that is "definitely offensive, seriously annoying or intolerable," and, thus, a nuisance. *Miller*, 720 N.W.2d at 567–68. Lumber Specialties has caused a permanent nuisance because the offending lights and noises are "reasonably certain to continue into the future." *Patz v. Farmegg Prods., Inc.*, 196 N.W.2d 557, 552 (Iowa 1972).

Mona grew up in Dyersville in the exact home she and Peter live in now—the Westermeyer Family Home. She and Peter retired and moved back to Iowa in 2018 in order to take care of Mona's elderly mother. Mona and Peter purchased the home and cared for Mona's mother until she died in February of 2020. The Westermeyer Family Home backs up to a railroad track which runs parallel to a walking trail (Heritage Trail), which, in turn, runs parallel to Beltline Road. Up until 2022, there was beautiful farmland to the Northeast of Beltline Road. One of the major reasons Mona and Peter purchased the family home—which was built by her father in 1958 and 1959—was the tranquility and dark skies offered by the Iowa farmland in their backyard. They poured sweat equity and about \$225,000 into the Westermeyer Family Home to remodel it into their forever home.

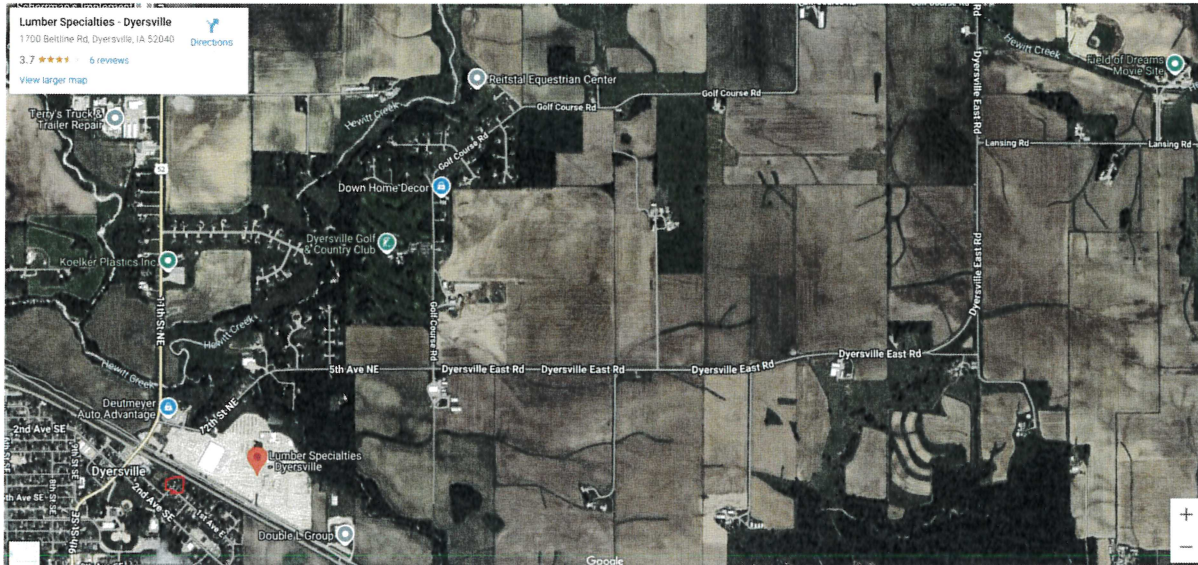
Here is a screenshot from Google maps that shows the facility and the Westermeyer Family Home outlined in red:



My clients have repeatedly called, emailed, and written letters to Lumber Specialties (including General Manager Robert Stewart), the City of Dyersville, and others asking for a reasonable remedy. They understand that they will have to live with some interference as long as they live in the Westermeyer Family Home. They simply want Lumber Specialties or US LBM Holdings, LLC, to plant a row of robust trees along the perimeter of the Lumber Specialties lot line so some of the light and noise from the facility is filtered or blocked. They also request that Lumber Specialties take action to reduce machine noise that appears to emanate from the silo/tower structure. Their exceedingly reasonable request for a row of trees and noise mitigation has fallen on dismissive ears.

Moreover, Mona and Peter have been treated differently by Lumber Specialties than those who have influence in the community. As you may know, the quaint town of Dyersville, Iowa, was made famous by Kevin Costner and others starring in the 1989 movie "Field of Dreams." The road to the Field of Dreams Movie Site is well-traveled and runs along the North West side of the Lumber Specialties facility—along a street that is known variously as 12th Street NE and 3rd Avenue NE. As one travels East on the street, it becomes Dyersville East Road. That street and road are also the way that most members make their way to the Dyersville Golf and Country Club. Lumber Specialties planted a beautiful row of large pine trees along the edge of the facility grounds so visitors and members' view of the facility is partially blocked as they drive toward the Field of Dreams or the Country Club. Not so for the property line that backs up to my clients' Home on the South West side of the facility.

Here is a screen shot of the facility, the Home circled in red, the Dyersville Golf and Country Club marked in green, and the Field of Dreams Movie Site marked in green:



Mona and Peter demand that US LBM Holdings, LLC, and Lumber Specialties engage. We demand the following remedies by September 1, 2025:

- 1) Trees: We demand that you pay for a row of twelve Eastern Pine trees of a size not less than twenty feet in height, to be planted along the South West edge of Lumber Specialties' property. We demand you pay for the trees and the cost to transport, plant, and maintain them. It would be prudent to purchase the trees from a greenhouse or garden center that guarantees them for at least a one-year period from the time they are planted.
- 2) Noise reduction. We also demand that Lumber Specialties investigate appropriate methods or materials that will reduce the sound emanating from the silo-like tower structure and institute such methods or materials to achieve an overall sound reduction of fifteen decibels, as measured from the Northern property line of the Westermeyer Family Home.

If these requests are ignored, Mona and Peter are prepared to take legal action in court. Damages for a permanent nuisance are the diminution in property value. *Weinhold v. Wolff*, 555 N.W.2d 454, 465 (Iowa 1996). Such damages are intended to compensate the landowner for interference that is tantamount to a permanent taking of the property. *Id.* Mona and Peter will also be entitled to recover special damages for personal inconvenience, annoyance, and discomfort caused by the nuisance. *Id.*

Shuttleworth & Ingersoll, P.L.C.
June 23, 2025
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Thank you for your time. I look forward to hearing from you by no later than July 7, 2025.

Sincerely,

A handwritten signature in blue ink that reads "Teresa B. Morio". The signature is written in a cursive, flowing style.

Teresa B. Morio
TBM@Shuttleworthlaw.com