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OFFICE OF THE CITY MANAGER

NO LTC # **254-2020**

LETTER TO COMMISSION

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: July 15, 2020

SUBJECT: Quarterly Noise Report Q1-2020 (January – March 2020)

This Letter to the Mayor and City Commission (LTC) provides noise data and analysis on the Code Compliance Department's (Code) enforcement efforts regarding the City's noise ordinance. The analysis includes the quarterly report Q1-2020 (January 1, 2020 – March 31, 2020). The data presented in this LTC is submitted in accordance to the requirements established in the 2008 Noise Administrative Guidelines, which were adopted via resolution and approved on October 7, 2008.

The information provided in this report is based on the data obtained from Energov, the database utilized by Code to track all cases, including noise complaints. The report includes the following documentation:

- Attachment A: Detailed data table for all noise cases for Q1-2020.
- Attachment B: Disposition of noise cases presented to, filed for appeal, or scheduled to be heard at Special Master Hearings for Q1-2020.

## I. Summary (Quarter Q1-2020)

During Q1-2020, there were a total of 1,195 noise cases opened and/or investigated by either Code or Police. Of these, 150 cases were routed to or addressed by Police during periods that Code does not operate, eight cases were entered in error and seven cases were deemed not applicable to Code.

When the above referenced 165 cases are subtracted from the total number of noise investigations, the result is 1,030 cases with a disposition. The disposition reflects several possible outcomes including whether the noise complaint met or failed to meet the violation threshold.

Achieving compliance is a principal goal for Code as it relates to the city's noise ordinance. Compliance is determined after assessment of the complaint by the Code Compliance Officer (CCO) and it is established that the reported noise level is not excessive, unusual and/or unnecessary.

This determination may be realized because the noise was lowered prior to the CCO's arrival, and exemption was granted, the noise level was not loud or excessive, the noise was not audible at 100 feet after 11PM or the noise was lowered as a direct result of a violation or warning being issued. During the rating period, compliance was achieved in 1,001 of the 1,030 cases handled by Code resulting in a **compliance rate of 97.2%** including the 43 cases achieving compliance by the issuance of a notice of violation or warning.

METHOD OF COMPLIANCE (Q1-2020) (January - March 2020)					
No Noise Upon Arrival	Music/Noise Not Loud nor Excessive	After 11PM - Not audible at 100ft.	Warning / Violation Issued	Exemption Granted	Music/Noise lowered prior to Code's arrival (per complainant)
440	356	110	43	22	30

This quarter continues the trend with loud music as the most common type of noise complaint (847 cases, 82.2%) followed by construction noise (119 cases, 11.6%). As it relates to the day of the week, Saturday continues to be the day with the highest incidents of noise complaints (245 cases, 23.8%).

The analysis for Q1-2020 indicates that of the total 1,030 cases addressed by Code, 618 (60.0%) were identified to have taken place in residential areas, 266 (25.8%) were identified to have taken place in commercially zoned properties, and 146 (14.2%) took place within the public right-of-way or on public property. The chart below reflects this information.

BREAKDOWN OF TOTAL CASES BY LOCATION TYPE (January - March 2020)		
	Number of Cases	Percentage of Cases Handled by Code
RESIDENTIAL	618	60.0%
COMMERCIAL	266	25.8%
OTHER	146	14.2%
TOTAL	1,030	100%

Attachment A provides details regarding the location of the noise complaint or proactive assessment, (e.g. apartment, bar, club, condominium, etc.), as well as noise type (e.g. loud music, construction, noise, barking dog). The attachment also reflects noise cases by time of day and day of week.

Response time can be a crucial element in responding to noise complaints. The table below provides the response time by establishment type for Q1-2020. Response time is described as the period between the time the complaint is received by the Parking Department's Dispatcher and "arrival time" to the location by a CCO.

AVERAGE TIME FOR CODE OFFICER TO ARRIVE (Q1-2020) (January - March 2020)			
Number of Cases*	Establishment Type	Number of Cases*	Average Time for Code Officer to Arrive (h:mm:ss)
998	Residential	597	0:21:25
	Commercial	261	0:26:10
	Other	140	0:20:18
	All Cases	998	0:22:30

\*Average Time Calculated using only those cases with valid time data for both "Time Call Received by Dispatch" and "Time of Arrival by Code Officer"

## II. Special Master Appeal Hearings (Q1-2020)

As required by Chapter 162 of the Florida Statutes, and part of due-process, noise violations are appealable before a special master. Attachment B reflects the resolution and/or status of noise-related cases appealed as of this reporting period.

During the evaluation period there were 25 noise-related cases pending appeal before the special master. Of these, 13 had yet to be heard and the dispositions of the remaining 12 cases are as follows:

- Six cases were adjudicated guilty,
- Three cases were settled with an agreed order,
- Two cases were dismissed by the special master, and
- One case was closed by the special master as the business is closed.

If you require further information, please contact Hernan D. Cardeno, Code Compliance Director at 305.673.7077.

JLM/EC/HDC/TC

#### Attachments

Attachment A: Noise Case Data, Q1-2020

Attachment B: Special Master Case Result Summary, Q1-2020

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## Noise Data 01/01/2020 - 3/31/2020 (Q1-2020)

## Total Number of Noise Complaint Cases Opened/Calls

Total Cases Opened	Less Voided, Duplicate Complaints, Complaints not Applicable to or handled by Code Compliance	Total with Dispositions
1,195	165	1,030

## Breakdown of Notices / Warnings Issued

Verbal	0	0.0%
Written Warning	39	90.7%
Violation	4	9.3%
<b>Totals</b>	<b>43</b>	<b>100%</b>

## Noise Cases by Type of Establishment

Establishment Type	Totals	
	Number of Cases	Percentage of All Cases
Residential	618	60.0%
Commercial	266	25.8%
Other	146	14.2%
<b>Totals</b>	<b>1,030</b>	<b>100%</b>

Residential = Apt, Condo, Single Family

Commercial = Bar, Club, Hotel, Hotel-Condo, Restaurant, Retail, Construction

Other = Bandshell, Beach, Public Property, etc.

Establishment Type	Totals	
	Number of Cases	Percentage of All Cases
APT	296	28.7%
BAR	55	5.3%
CLUBS	18	1.7%
CONDO	192	18.6%
CONDO-HOTEL	41	4.0%
HOME	130	12.6%
OTHER	146	14.2%
RESTAURANT	71	6.9%
RETAIL	0	0.0%
HOTEL	81	7.9%
UNKNOWN	0	0.0%
<b>Totals</b>	<b>1,030</b>	<b>100%</b>

## Noise Cases by Noise Type

Noise Type	Totals	
LOUD MUSIC	847	82.2%
LIVE ENTERTAINMENT	3	0.3%
BARKING DOG / ANIMALS	58	5.6%
CROWD NOISE	1	0.1%
CONSTRUCTION	119	11.6%
OTHER	2	0.2%
HONKING CARS/ALARMS	0	0.0%
<b>Totals</b>	<b>1,030</b>	<b>100%</b>



### Call Time of Day / Day of Week

Day of Week	Total		7a - 11p		11p - 7a (of the following morning)	
Monday	108	10.5%	78	7.6%	30	2.9%
Tuesday	97	9.4%	69	6.7%	28	2.7%
Wednesday	108	10.5%	66	6.4%	42	4.1%
Thursday	129	12.5%	72	7.0%	57	5.5%
Friday	172	16.7%	92	8.9%	80	7.8%
Saturday	245	23.8%	123	11.9%	122	11.8%
Sunday	171	16.6%	141	13.7%	30	2.9%
<b>Totals</b>	<b>1,030</b>	<b>100%</b>	<b>641</b>	<b>62.2%</b>	<b>389</b>	<b>37.8%</b>

### Call Time of Day - Establishment Type

Establishment Type	Total		7a - 11p		11p - 7a (of the following morning)	
RESIDENTIAL	618	60.0%	392	38.1%	226	21.9%
COMMERCIAL	266	25.8%	143	13.9%	123	11.9%
OTHER	146	14.2%	106	10.3%	40	3.9%
UNKNOWN	0	0.0%	0	0.0%	0	0.0%
<b>Totals</b>	<b>1,030</b>	<b>100%</b>	<b>641</b>	<b>62.2%</b>	<b>389</b>	<b>37.8%</b>

### Breakdown of Calls with Identified Complainants and with Anonymous Complainants

Complainant Type	Total Cases		Notice / Warning Issued		No Notice / Warning Issued	
Anonymous Complainant	676	65.6%	18	1.7%	658	63.9%
Anonymous / Contact made	27	2.6%	4	0.4%	23	2.2%
Contact Information Provided	327	31.7%	21	2.0%	306	29.7%
Proactive	0	0.0%	0	0.0%	0	0.0%
Unknown	0	0.0%	0	0.0%	0	0.0%
<b>Totals</b>	<b>1,030</b>	<b>100%</b>	<b>43</b>	<b>4.2%</b>	<b>987</b>	<b>95.8%</b>

ATTACHMENT B

Information on Disposition of Cases by Special Master and by Judicial (Q1-2020)						
Date of Violation	Request Filed	Special Master Case Number	Code Case Number	Address	Name	Status
11/03/2017	11/14/2017	SMN2017-00031	NC2017-04895	1330 OCEAN DR	TWIN 918, LLC	SM 11/14/2019 (Indefinitely continued pending litigation)
11/04/2017	11/14/2017	SMN2017-00030	NC2017-04988	1330 OCEAN DR	TWIN 918, LLC	SM 11/14/2019 (Indefinitely continued pending litigation)
05/19/2018	05/25/2018	SMN2018-00048	NC2018-07459	1330 OCEAN DR C-17	TWIN 918, LLC	SM 11/14/2019 (Indefinitely continued pending litigation)
05/20/2018	05/25/2018	SMN2018-00049	NC2018-07467	1330 OCEAN DR C-17	TWIN 918, LLC	SM 11/14/2019 (Indefinitely continued pending litigation)
08/10/2018	08/20/2018	SMN2018-00056	NC2018-08203	1330 OCEAN DR C-51	TWIN 918, LLC	SM 11/14/2019 (Indefinitely continued pending litigation)
08/12/2018	08/20/2018	SMN2018-00057	NC2018-08219	1330 OCEAN DR C-51	TWIN 918, LLC	SM 11/14/2019 (Indefinitely continued pending litigation)
03/12/2019	03/18/2019	SMN2019-00070	NC2019-10539	1330 OCEAN DR C-17	TWIN 918, LLC	SM 11/14/2019 (Indefinitely continued pending litigation)
03/20/2019	03/26/2019	SMN2019-00072	NC2019-10648	1330 OCEAN DR C-17	TWIN 918, LLC	SM 11/14/2019 (Indefinitely continued pending litigation)
03/22/2019	03/26/2019	SMN2019-00071	NC2019-10685	1330 OCEAN DR C-17	TWIN 918, LLC	SM 11/14/2019 (Indefinitely continued pending litigation)
04/14/2019	04/18/2019	SMN2019-00073	NC2019-110055	1330 OCEAN DR	TWIN 918, LLC	SM 11/14/2019 (Indefinitely continued pending litigation)
08/10/2019	08/14/2019	SMN2019-00080	NC2019-11985	1000 COLLINS AVE	CG FAIRWINDS LLS	SM 02/13/2020 Agreed Order, petitioner to pay fine of \$1,250 within 30 days for this case and SMN2019-00087
08/10/2019	08/13/2019	SMN2019-00082	NC2019-11993	1542 WASHINGTON AV	SOUTH BY SOUTH FOOD GROUP LLC	SM 02/27/2020 Case Closed Pursuant to City's testimony, business is no longer operating
08/20/2019	08/22/2019	SMN2019-00083	NC2019-12054	1614 ALTON RD	PLAZA CONSTRUCTION CO c/o CT CORPORATION SYSTEM	SM 01/16/2020 The Petitioner's request to appeal is DENIED Adjudication of noncompliance Per the Code Inspector, the fine has been paid.
09/15/2019	09/24/2019	SMN2019-00085	NC2019-12243	1255 WEST AVE	1247 BAYVIEW DEVELOPMENT CORPORATION c/o PHILLIP MUSKAT, RA	SM 01/23/2020 Petitioner's request to appeal is DENIED Adjudication of noncompliance. This is the Petitioner's first offense which carries a fine of \$250.00 and shall be paid by 02/24/2020.

Date of Violation	Request Filed	Special Master Case Number	Code Case Number	Address	Name	Status
09/22/2019	09/25/2019	SMN2019-00086	NC2019-12305	1000 COLLINS AVE	CG FAIRWINDS LLC C/O OREN LIEBER ESQ	2/13/2020 - Agreed Order between the City of Miami Beach and the Petitioner was file on February 13, 2020 CASE DISMISSED
09/20/2019	09/25/2019	SMN2019-00087	NC2019-12282	1000 COLLINS AVE	CG FAIRWINDS LLC C/O LIEBER, OREN ESQ	SM 02/13/2020 Agreed Order. petitioner to pay fine of \$1,250 within 30 days for this case and SMN2019-00080
10/08/2019	10/11/2019	SMN2019-00088	NC2019-12436	1614 ALTON ROAD	PLAZA CONSTRUCTION GROUP FI C/O VICTOR NIEVES	SM 01/23/2020 Petitioner's request to appeal is DENIED. Adjudication of noncompliance. This is the Petitioner's seventh offense which carries a fine of \$5,000.00, however, the fine shall be reduced to \$2,500.00 and shall be paid 02/24/2020.
10/12/2019	10/17/2019	SMN2019-00089	NC2019-12464	1000 COLLINS AVE	CG FAIRWINDS LLC C/O LIEBER, OREN ESQ	SM 02/13/2020 Agreed Order filed on February 13, 2020 CASE DISMISSED
10/14/2019	10/17/2019	SMN2019-00090	NC2019-12480	1000 COLLINS AVE	CG FAIRWINDS LLC	SM 02/13/2020 Agreed Order filed on February 13, 2020 CASE DISMISSED
10/06/2019	10/15/2019	SMN2019-00091	NC2019-12423	1800 SUNSET HARBOUR	ROBERT FRIEDMAN	SM 02/06/2020 This is the Petitioner's first offense which carries a fine of \$250.00 and is WAIVED
10/31/2019	11/04/2019	SMN2019-00092	NC2019-12662	960 OCEAN DRIVE	SOBE USA, LLC /b/a OCEANS TEN	SM 02/06/2020 Petitioner's appeal is GRANTED. This case is DISMISSED
12/03/2019	12/10/2019	SMN2019-00093	NC2019-13034	1628 COLLINS AVE	9 BEACH LATIN AMERICAN L	SM 07/30/2020
12/22/2019	12/31/2019	SMN2019-00094	NC2019-13291	1000 COLLINS AVE	CG FAIRWINDS LLC	SM 2/13/2020 -- Agreed Order filed on February 13, 2020 CASE DISMISSED
01/04/2020	01/17/2020	SMN2020-00095	NC2020-13447	1614 ALTON RD	PLAZA CONSTRUCTION GROUP FLORIDA LLC	SM 08/13/2020
02/28/2020	03/06/2020	SMN2020-00096	NC2020-14137	1000 COLLINS AVE	CG FAIRWINDS LLC C/O TAI BLUN	SM 08/27/2020