

MIAMI BEACH

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OFFICE OF THE CITY MANAGER

NO. LTC # **114-2020**

LETTER TO COMMISSION

TO: Mayor Dan Gelber and Members of the City Commission
FROM: Jimmy L. Morales, City Manager
DATE: February 18, 2020
SUBJECT: Combined Noise Report:
Quarterly Noise Report Q2-2019 (April – June 2019) and
Annual Noise Report 2018-2019 (July 2018 – June 2019)

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 Q2-2019 (April 1, 2019 - June 30, 2019) and the annual noise report which reflects data from July 1, 2018 through June 30, 2019. 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 Q2-2019.
- Attachment B: Disposition of noise cases presented to, filed for appeal, or scheduled to be heard at Special Master Hearings for Q2-2019.
- Attachment C: Detailed data table for all noise cases for the period from July 1, 2018 - June 30, 2019.

I. Summary of Quarter 2 - 2019

During Q2-2019, there were a total of 789 noise cases opened and/or investigated by either Code or Police. Of these, 103 cases were routed to or addressed by Police during periods that Code does not operate, 15 cases were canceled by the complainant prior to the Code's arrival, two cases were deemed not applicable to Code and two cases were duplicates entered in error.

When the above referenced 122 cases are subtracted from the total number of noise investigations, the result is 667 cases with a disposition. The disposition reflects several possible outcomes including whether the noise complaint met or failed to meet the noise 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, exemption was granted by permit, 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 649 of the 667 cases handled by Code resulting in a **compliance rate of 97.3%** including the 44 cases achieving compliance by the

issuance of a notice of violation or warning.

METHOD OF COMPLIANCE					
No Noise Upon Arrival	Music/Noise Not Loud nor Excessive	After 11PM - Not audible at 100ft.	Written Warning / Violation Issued	Exemption Granted	Music / Noise lowered prior to Code's arrival (per complainant)
286	175	114	44	22	8

This quarter continues the trend with loud music as the most common type of noise complaint (500 cases, 75.0%) followed by construction noise (106 cases, 15.9%). As it relates to the day of the week, Saturday continues to be the day with the highest incidents of noise complaints (167 cases, 25.0%).

The analysis for Q2-2019 indicates that of the total 667 cases addressed by Code, 401 (60.1%) were identified to have taken place in residential areas; 86 (12.9%) took place within the public right-of-way or on public property. The chart below details this information.

BREAKDOWN OF TOTAL CASES BY TYPE April 2019 – June 2019		
	Number of cases	Percentage of cases handled by Code
RESIDENTIAL	401	60.1%
COMMERCIAL	180	27.0%
OTHER	86	12.9%
TOTAL	667	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 Q2-2019. 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 (April - June 2019)		
Establishment Type	Number of Cases*	Average Time for Code Officer to Arrive (hh:mm:ss)
Residential	391	0:22:34
Commercial	178	0:18:09
Other	82	0:20:16
All Cases	651	0:21:04

*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 (Q2-19)

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 28 noise-related cases pending appeal before the Special Master. Of these, 23 had yet to be heard and the dispositions of the remaining five cases are as follows:

- one case was adjudicated of noncompliance,
- one case was settled with an Agreed Order that affirmed the violation and reduced the fine, and
- three cases were dismissed by the Special Master.

III. Summary of Annual Report Data

During the reporting period for July 1, 2018 through June 30, 2019 a total of 3,796 noise complaint cases were received. Of the 3,796 total cases, 559 were routed to Police as the request was received during hours that Code does not operate, 83 were canceled by the complainant, 27 were determined to not be applicable to Code and 18 cases were duplicates entered in error.

When the above referenced 687 cases are removed from the total number of cases opened the result is 3,109 cases having been addressed by Code. During the annual evaluation period, compliance was achieved in 3,000 of the 3,109 cases handled by Code resulting in a **compliance rate of 96.5%** including the 263 cases achieving compliance by the issuance of a notice of violation or warning.

Loud music remains the most common type of noise complaint (2,373 cases, 76.3%) followed by construction-related noise (492 cases, 15.8%). As it relates to the day of the week, Saturday continues to be the day with the highest incidents of noise complaints (750 cases, 24.1%).

BREAKDOWN OF TOTAL CASES BY TYPE July 2018 – June 2019		
	Number of cases	Percentage of cases handled by Code
RESIDENTIAL	1,843	59.3%
COMMERCIAL	841	27%
OTHER	403	13.0%
UNKNOWN	22	0.7%
TOTAL	3,109	100%

Historically, noise complaints in residentially zoned areas make up more than half of all noise cases. As illustrated in the chart above, this reporting year continues the trend.

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


JLM/ES/HUC/TC/rfm

Attachments

- Attachment A: Noise Case Data, Q2-2019
- Attachment B: Special Master Case Result Summary, Q2-2019
- Attachment C: Noise Case Data, July 1, 2018 – June 30, 2019

Noise Data 04/01/2019 - 6/30/2019 (Q2-2019)
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Total Number of Noise Complaint Cases Opened/Calls

Total Cases Opened	Less Voided, Canceled, Duplicate Complaints, Complaints not Applicable to or handled by Code Compliance	Total with Dispositions
789	122	667

Breakdown of Notices / Warnings Issued

Verbal	1	2.3%
Written Warning	35	79.5%
Violation	8	18.2%
Totals	44	100%

Noise Cases by Type of Establishment

Establishment Type	Totals	
	Number of Cases	Percentage of All Cases
Residential	401	60.1%
Commercial	180	27.0%
Other	86	12.9%
Totals	667	100%

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	166	24.9%
BAR	24	3.6%
CLUBS	18	2.7%
CONDO	143	21.4%
CONDO-HOTEL	26	3.9%
HOME	92	13.8%
OTHER	86	12.9%
RESTAURANT	69	10.3%
RETAIL	0	0.0%
HOTEL	43	6.4%
UNKNOWN	0	0.0%
Totals	667	100%

Noise Cases by Noise Type

Noise Type	Totals	
LOUD MUSIC	500	75.0%
LIVE ENTERTAINMENT	1	0.1%
BARKING DOG / ANIMALS	41	6.1%
CROWD NOISE	1	0.1%
CONSTRUCTION	106	15.9%
OTHER	17	2.5%
HONKING CARS/ALARMS	1	0.1%
Totals	667	100%

Call Time of Day / Day of Week

Day of Week	Total		7a - 11p		11p - 7a (of the following morning)	
Monday	74	11.1%	57	8.5%	17	2.5%
Tuesday	59	8.8%	40	6.0%	19	2.8%
Wednesday	48	7.2%	33	4.9%	15	2.2%
Thursday	74	11.1%	38	5.7%	36	5.4%
Friday	106	15.9%	44	6.6%	62	9.3%
Saturday	167	25.0%	84	12.6%	83	12.4%
Sunday	139	20.8%	118	17.7%	21	3.1%
Totals	667	100%	414	62.1%	253	37.9%

Call Time of Day - Establishment Type

Establishment Type	Total		7a - 11p		11p - 7a (of the following morning)	
RESIDENTIAL	401	60.1%	246	36.9%	155	23.2%
COMMERCIAL	180	27.0%	99	14.8%	81	12.1%
OTHER	86	12.9%	69	10.3%	17	2.5%
UNKNOWN	0	0.0%	0	0.0%	0	0.0%
Totals	667	100%	414	62.1%	253	37.9%

Breakdown of Calls with Identified Complainants and with Anonymous Complainants

Complainant Type	Total Cases		Notice / Warning Issued		No Notice / Warning Issued	
Anonymous Complainant	417	62.5%	20	3.0%	397	59.5%
Anonymous / Contact made	23	3.4%	6	0.9%	17	2.5%
Contact Information Provided	226	33.9%	17	2.5%	209	31.3%
Proactive	1	0.1%	1	0.1%	0	0.0%
Unknown	0	0.0%	0	0.0%	0	0.0%
Totals	667	100%	44	6.6%	623	93.4%

ATTACHMENT B

Information on Disposition of Cases by Special Master and by Judicial (Q2-2019)						
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 11/14/19 (Indefinitely continued pending litigation)
11/04/2017	11/14/2017	SMN2017-00030	NC2017-04988	1330 OCEAN DR	Twin 918, LLC	SM 11/14/19 (Indefinitely continued pending litigation)
05/19/2018	05/25/2018	SMN2018-00048	NC2018-07459	1330 OCEAN DR C-17	Twin 918, LLC	SM 11/14/19 (Indefinitely continued pending litigation)
05/20/2018	05/25/2018	SMN2018-00049	NC2018-07467	1330 OCEAN DR C-17	Twin 918, LLC	SM 11/14/19 (Indefinitely continued pending litigation)
06/06/2018	06/15/2018	SMN2018-00052	NC2018-07644	7345 BYRON AVE 3	7345 Byron Avenue LLC	4/25/2019 Adjudication of noncompliance. This is the Petitioner's first offense which carries a fine of \$250.00 and is reduced to \$150.00 and paid to the City by May 28, 2019.
08/10/2018	08/20/2018	SMN2018-00056	NC2018-08203	1330 OCEAN DR C-51	Twin 918, LLC	SM 11/14/19 (Indefinitely continued pending litigation)
08/12/2018	08/20/2018	SMN2018-00057	NC2018-08219	1330 OCEAN DR C-51	Twin 918, LLC	SM 11/14/19 (Indefinitely continued pending litigation)
10/29/2018	11/30/2018	SMN2018-00061	NC2018-08882	720 OCEAN DR	720 OCEAN DRIVE LLC d/b/a THE PLACE	SM 8/22/2019
11/19/2018	11/30/2018	SMN2018-00063	NC2018-09098	551 LINCOLN RD ROW	OUNZE CORPORATE LLC d/b/a TAPELIA	SM 6/13/19 The appeal is GRANTED. This case is CLOSED and the \$100.00 administrative court cost shall be returned to the Petitioner.
11/24/2018	11/30/2018	SMN2018-00062	NC2018-09160	860 OCEAN DR	860 OCEAN DRIVE LLC	SM 6/23/2019 Agreed Order was entered - Violation Dismissed. The administrative submitted with appeal shall not be returned.
11/26/2018	11/26/2018	SMN2018-00059	NC2018-09078	235 23 ST	MOKAI LOUNGE LLC	SM 6/23/2019 Agreed Order was entered - Violation Affirmed. Fine reduced to \$750 to be paid within 30 days or the fine shall return to the original amount.
11/26/2018	11/26/2018	SMN2018-00060	NC2018-09163	235 23 ST	MOKAI LOUNGE LLC	SM 6/23/2019 Agreed Order was entered - Violation Dismissed. The administrative submitted with appeal shall not be returned.
11/29/2018	11/30/2018	SMN2018-00064	NC2018-09208	551 LINCOLN RD	OUNZE CORPORATE LLC	SM 10/10/2019
12/07/2018	12/12/2018	SMN2018-00065	NC2018-09330	336 21 ST	PLYMOUTH HOTEL	SM 10/24/2019
01/13/2019	01/16/2019	SMN2019-00066	NC2019-09857	1131 COLLINS AVE	BALKAN FLORIDA, LLC d/b/a RAKIJA LOUNGE	SM 9/12/2019
02/06/2019	02/12/2019	SMN2019-00067	NC2019-10157	309 23 ST	MMPB GROUP d/b/a VILLA AZUR RES	SM 9/12/2019
02/22/2019	03/04/2019	SMN2019-00069	NC2019-10346	720 OCEAN DR	720 OCEAN DRIVE LLC d/b/a THE PLACE	SM 9/12/2019
02/23/2019	03/04/2019	SMN2019-00068	NC2019-10348	826 OCEAN DR	826 OCEAN DRIVE LLC, d/b/a PELICAN	SM 9/12/2019
03/12/2019	03/18/2019	SMN2019-00070	NC2019-10539	1330 OCEAN DR C-17	Twin 918, LLC	SM 11/14/19 (Indefinitely continued pending litigation)
03/20/2019	03/26/2019	SMN2019-00072	NC2019-10648	1330 OCEAN DR C-17	Twin 918, LLC	SM 11/14/19 (Indefinitely continued pending litigation)
03/22/2019	03/26/2019	SMN2019-00071	NC2019-10685	1330 OCEAN DR C-17	Twin 918, LLC	SM 11/14/19 (Indefinitely continued pending litigation)
04/09/2019	04/18/2019	SMN2019-00074	NC2019-10958	1614 ALTON RD	1212 LINCOLN LLC, AARP 1600 MIAMI LLC	SM 09/12/2019
04/14/2019	04/18/2019	SMN2019-00073	NC2019-110055	1330 OCEAN DR	Twin 918, LLC	SM 11/14/19 (Indefinitely continued pending litigation)
04/26/2019	04/26/2019	SMN2019-00075	NC2119-11043	210 23 ST	KLIMA LLC dba Mandrake	SM 12/12/2019
04/27/2019	05/02/2019	SMN2019-00076	NC2019-11117	1614 ALTON RD	PLAZA CONSTRUCTION	SM 9/12/2019
05/22/2019	05/23/2019	SMN2019-00077	NC2019-11366	1614 ALTON RD	PLAZA CONSTRUCTION	SM 10/10/2019
06/04/2019	06/04/2019	SMN2019-00078	NC2019-10987	1600 ALTON RD	PLAZA CONSTRUCTION	SM 12/12/2019
06/24/2019	06/28/2019	SMN2019-00079	NC2019-11612	1614 ALTON RD	1212 LINCOLN LLC	SM 10/10/2019

Noise Data 07/01/2018 - 06/30/2019 (Annual)
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Total Number of Noise Complaint Cases Opened/Calls Received

Total Cases Opened	Less Cases handled by MBPD, Voided, Canceled, Duplicate Complaints, Complaints not Applicable to or handled by Code Compliance	Total Cases Handled by Code
3,796	687	3,109

Breakdown of Notices / Warnings Issued

Verbal	3	1.1%
Written Warning	200	76.1%
Violation	60	22.8%
Totals	263	100%

Noise Cases by Type of Establishment

Establishment Type	Totals	
	Number of Cases	Percentage of All Cases
Residential	1,843	59.3%
Commercial	841	27%
Other	403	13.0%
Unknown	22	0.7%
Totals	3,109	100%

Residential = Apt, Condo, Single Family

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

Other = Bandshell, Beach, Public Property, etc.

Establishment	Totals	
	Number of Cases	Percentage of All Cases
APT	827	26.6%
BAR	110	3.5%
CLUBS	121	3.9%
CONDO	565	18.2%
CONDO-HOTEL	94	3.0%
HOME	451	14.5%
OTHER	403	13.0%
RESTAURANT	261	8.4%
RETAIL	4	0.1%
HOTEL	251	8.1%
UNKNOWN	22	0.7%
Totals	3,109	100%

Noise Cases by Noise Type

Noise Type	Totals	
	Number of Cases	Percentage of All Cases
LOUD MUSIC	2,373	76.3%
LIVE ENTERTAINMENT	14	0.5%
BARKING DOG / ANIMALS	194	6.2%
CROWD NOISE	2	0.1%
CONSTRUCTION	492	15.8%
OTHER	26	0.8%
HONKING CARS/ALARMS	8	0.3%
Totals	3,109	100%

Call Time of Day / Day of Week

Day of Week	Totals		7a - 11p		11p - 7a (of the following morning)	
Monday	353	11.4%	233	7.5%	120	3.9%
Tuesday	285	9.2%	196	6.3%	89	2.9%
Wednesday	301	9.7%	204	6.6%	97	3.1%
Thursday	363	11.7%	194	6.2%	169	5.4%
Friday	557	17.9%	237	7.6%	320	10.3%
Saturday	750	24.1%	355	11.4%	395	12.7%
Sunday	500	16.1%	411	13.2%	89	2.9%
Totals	3,109	100%	1830	58.9%	1279	41.1%

Call Time of Day - Establishment Type

Establishment Type	Totals		7a - 11p		11p - 7a (of the following morning)	
RESIDENTIAL	1,843	59.3%	1097	35.3%	746	24.0%
COMMERCIAL	841	27.1%	434	14.0%	407	13.1%
OTHER	403	13.0%	286	9.2%	117	3.8%
UNKNOWN	22	0.7%	13	0.4%	9	0.3%
Totals	3,109	100%	1,830	58.9%	1,279	41.1%

Breakdown of Calls with Identified Complainants and with Anonymous Complainants

Complainant Type	Total Cases		Notice / Warning Issued		No Notice / Warning Issued	
Anonymous Complainant	1875	60.3%	93	3.0%	1782	57.3%
Anonymous / Contact made	138	4.4%	41	1.3%	97	3.1%
Contact Information Provided	1066	34.3%	121	3.9%	945	30.4%
Proactive	8	0.3%	7	0.2%	1	0.0%
Unknown	22	0.7%	1	0.0%	21	0.7%
Totals	3,109	100%	263	8.5%	2846	91.5%