

**Noise Control Board Meeting - FINAL
 Wednesday, April 7, 2021
 Via Teleconferencing through Zoom
 6:30 p.m.**

<u>Members</u>	<u>Present</u>	<u>Absent</u>
Irene Bellamy	X	
Adele Ellis		X
Kerry Snow	X	
Mark Shroder	X	
Alan Stillwell	X	
Larry Wenzel	X	

Also Present – For the City of College Park:

Bob Ryan, Public Services Director, Staff Liaison
 Suellen Ferguson, City Attorney
 Sharon Fletcher, Executive Assistant – Public Services
 Liza Llaneta, Code Enforcement Officer
 James Key, Code Enforcement Officer
 Sheryl DeWalt, Recording Secretary

Also Present – Others:

Sam Wolf, Attorney for Dugoff Properties LLC
 David Dugoff, Dugoff Properties - respondent
 Benjamin Dugoff, member Dugoff Properties, LLC
 Alison Quindlen - complainant
 James Quindlen - complainant

I. Call to Order

The meeting was called to order at 6:30 p.m. by Mr. Stillwell, Chair.

II. Approval of Agenda

Mr. Stillwell added to the agenda, “Reading of the Complaints” after the Review of Chapter 138 – Noise. Mr. Shroder motioned to accept the agenda with the change. Ms. Bellamy seconded.

Motion carries 5-0-0.

III. Hearing: 8616 Baltimore Avenue, College Park

Property Owner: Dugoff Properties, LLC

Complainants: Alison Quindlen
 James Quindlen

Noise Control Board Chairman Stillwell explained the process for the hearing. Mr. Stillwell read from the City of College Park Noise Code Regulations: §138-1: Statement of Findings; §138-2: Definitions – referenced to Noise Disturbance - Any noise that is: A. Unpleasant, annoying, offensive, loud, or

obnoxious and B. Unusual for the time of day or location where it is produced or heard; §138-6: **Violations and Penalties - ¶B** Noise Control Board: B (1) When two or more City residents submit written complaints that noise is being or has been generated in violation of § 138-5A(1), (5), (6) or (8) of this chapter, which complaints shall be delivered to the City Clerk, or postmarked, within 15 days of the alleged violation, and request a hearing before the Noise Control Board, the Director shall: (a) Schedule a hearing before the Noise Control Board within 30 days of receipt of complaints referred to in this section; and (b) Give notice of the alleged violation to the owner and the occupant(s) of the property upon which such violation has allegedly occurred. B(2) When a violation of § 138-5 of this chapter has been alleged in accordance with the provisions of Subsection B of this section, the Noise Control Board shall conduct a hearing for the purpose of determining whether such violation has occurred.

Complaints were received, via email, on March 16, 2021 from Jim Quindlen and March 18, 2021 from Alison Quindlen. Mr. and Mrs. Quindlen reside at 8504 48th Avenue, College Park, Maryland 20740. Mr. Stillwell read each email received.

The Complainants, Alison Quindlen and Jim Quindlen

Mr. Quindlen stated that in addition to the email received by the City of College Park, he would like it noted that the Car Wash has been a continuous problem. It is a popular spot for the car clubs and especially for playing their stereo music very loudly. He had made a number of reports throughout the years and it is not uncommon for him to call three times per week. Mr. Stillwell asked him to specifically describe the March 10, 2021 incident. Mr. Quindlen stated that there were a lot of large backfires. He walked to the corner and saw and heard the noise coming from the Car Wash. He returned to his back porch and capture about 20 minutes of the noise on video. At 10:20pm, he called the police and the cars started to disperse about 10:40pm. The video and the slides sent to the City of College Park were reviewed. Mr. Quindlen also stated that on March 8, 2021 at about 1:30am, the car club was doing donuts in the parking lot. As usual, there is no supervisor while the business is open and the cars only disappear when the police chase them away. [Copies of the slides are attached to the minutes.]

Mrs. Quindlen stated that they have lived in their home in Berwyn for 18 years. Recently, they have been talking about whether or not they could continue to live in College Park. The noise at the Car Wash has become increasingly worse over the years. There have been many sleepless nights due to the noise from the Car Wash. They have spoken to neighbors who are also complaining about the noise from the Car Wash. We would like to work together to rectify the problem, but they are having a hard time reaching the owners. March 10, 2021 is a good example of what happens on a regular basis. Many cars were rallied at the Wash. The noise started a little before 9:00pm and lasted until about 10:40-10:45pm. Both she and her husband called the police that night.

Mr. Shroder asked if they had contacted the property owners. Mr. Quindlen replied that he sent an email to the property owner a long time ago. He had received a response and paraphrased stating that he [the owner] was sorry to hear about the noise, but he had been there all day and heard nothing. He thinks that there are signs up asking to not turn up the car stereo music.

Mr. Bob Ryan, City Report

Mr. Ryan stated that the Car Wash is an attractive nuisance. These car clubs use the Car Wash as one of their key spots to meet with their modified cars. The Car Wash is open 24/7 and there is no attendant or security guard at night. There are No Loitering Signs posted, but those are ignored. About 18 months ago, he met with Mr. Dugoff, however, no concrete solutions were made. Mr. Ryan also offered that from March 1, 2020 through March 24, 2021, there have been 102 complaints called into the 911 center

through Prince George's County. Based on calls or emails received to Code Enforcements, 26 notices concerning noise complaints were mailed to the owners from March 4, 2020 to February 19, 2021; there were also three municipal infraction citations issued. Mr. Ryan also stated that the car clubs are a hazard to the community. He has made suggestions to the owner that an attendant or off-duty police officer is on duty 24/7 since the Car Wash is open 24/7 and/or a reasonable closing time and construction of gates when the business is closed. Mr. Ryan also noted that there have been as many as 60 vehicles at the Car Wash and disperse when police arrive. It is very difficult to charge the car owners with noise violations when they are swiftly driving away. The Code Enforcement officers can talk to the motorists but cannot issue fines. Ms. Ferguson stated that the City Code Officers cannot charge the car owners with trespassing; only the property owner can levy trespassing charges.

Mr. Wenzel confirmed Mr. Ryan's statement that there were several noise fines issued and the City is waiting on court dates. He also asked how many noise complaints were issued in the past 12 months. Mr. Ryan stated there were three in the last 12 months that exceeded the noise decibel level set by the City of College Park.

Respondent, Mr. Dugoff

Mr. Dugoff asked that his attorney, Mr. Sam Wolf, speak first.

Attorney for Respondent, Mr. Wolf

Mr. Wolf stated that the owners of the Car Wash is sympathetic to the Quindlen's and anyone else affected by the noise. The Car Wash cannot control the car clubs. Mr. Wolf cited §138-5: A-1. For any owner or occupant of real property located within the City to make or to generate loud or raucous sound on said property, or to permit any loud or raucous sound to be made or generated on said property, so as to cause unreasonable annoyance or disturbance to others living or located nearby or to create a noise disturbance or permit the creation of a noise disturbance. Dugoff Properties and Car Wash Inc. (management company) are not the ones creating the noise disturbances. The noise is definitely being generated from the car clubs. The Car Wash has posted signs telling people to be mindful of the neighbors, do not play loud music; they also regularly post on social media with the same information to be courteous to the neighbors and not play loud music.

Mr. Dugoff is trying to work with the City of College Park to find a solution. An overnight employee could not do anything except call the police. Neither Mr. Dugoff nor the management company want to put any employee in harm's way trying to deal with the car clubs on his/her own. It was again reiterated that the Car Wash is not causing the noise issues, but the car clubs.

Mr. Wolf also pointed out that the following:

- a. With the number of violations, there have been no findings by the court or the Noise Board in the last year.
- b. The District Court has ruled in favor of the Car Wash.
- c. There are no records of court hearings.

Mr. Stillwell asked the following questions: Is Mr. Dugoff abandoning his rights to the property? Could the Car Wash close overnight instead of being open 24/7? Are there not ways to explore in making it more difficult for the car clubs to be on the property – barriers, gates, hire off duty police, etc.? Mr. Wolf responded that Mr. Dugoff wants to be a good neighbor and community member, but the Car Wash is a self-service business open 24/7. Mr. Wolf also stated that the noise violation has to occur on the premises. Once the cars leave the property, the Car Wash should not be cited for the noise.

Respondent, Mr. Dugoff

Mr. Dugoff first responded that he was very sorry that the Quindlens are a victim of this behavior. He has been reaching out the City of College Park for several years. He has personally reached out to Bob Ryan twice in the last two to three years and have made at least three to four email attempts with the City in the last year. He cited a few changes to the noise law in California. He stated that he does not want the employees to intercede with anyone at night. In previous court cases, the judge said that the Car Wash did not permit the noise and dismissed the cases.

There are five cameras at different angles at the Car Wash. He is willing to put in other cameras in different areas and upgrade the system. The car wash is 24/7 and 90% of the business is done between 7:30pm-9:00pm. Most violations are cited after 10:00pm. Barriers and gates are not realistic.

Mr. Quindlen stated that the car stereo noise is a consistent problem. While sitting here in the meeting, he can hear the noise. He stated that most of the noise happens after midnight until about 2:00 or 3:00am. He has called both the Noise Control officers and the police.

Ms. Ferguson agreed that most noise [related to the Car Wash] happens after 7:00pm.

Mr. Ryan has records, and they were shared on screen (and are attached to the draft minutes) provided by Public Services that there are multiple calls after 12:00 midnight. The violations are issued if the decibel level is 55 or above.

Mr. Schroder asked with all the cameras on the property, were license plate numbers picked up? If so, the license plates number could be shared with Bob Ryan. Mr. Ryan stated that an infraction could not be issued after the fact using license plate numbers; the sound meter would have to measure the noise as it was happening. Neither the City nor the County Police can use a still photograph or a video [to issue a violation to a vehicle/driver.

Ms. Ferguson reiterated that violations cannot be issued by Code Enforcement Officers without the use of the noise meters. Code Enforcement Officers cannot cite vehicles and cannot require people to identify themselves.

Mr. Stillwell opened the floor for additional questions. Hearing none, the Board began private deliberations **at 8:04 p.m.**

Chairman Stillwell reconvened the hearing at 8:27 p.m.

Chairman Stillwell stated the Board found that a violation had occurred; Chairman Stillwell requested a motion that a violation had occurred.

Mrs. Bellamy motioned that a violation had occurred Mr. Shroder seconded the motioned. All were in favor. **The motion passed 5-0-0.** The Board also agreed to continue the case and no fine would be issued now. The Board would like to have best efforts made within the next 30 days to have suggestions to resolve this problem. Mr. Shroder made a motion for a continuance and the hearing to be reconvene in 30 days and that necessary steps are taken for a solution(s). Ms. Bellamy seconded. **The motion passed 4-0-1.**

Mr. Wolf asked how the Board would be notified of efforts by Mr. Dugoff. Ms. Ferguson responded that Mr. Dugoff should work with Mr. Ryan. Mr. Ryan will prepare a report and submit it to the Board at

the end of 30 days. Mr. Dugoff stated that he is looking forward to sitting down with Mr. Ryan to find an agreeable solution. Ms. Ferguson reminded that the onus is on the owner to solve the problem, not the City of College Park.

IV. Other Business

No other business

V. Adjournment

Mr. Shroder motioned to adjourn the meeting. Mrs. Bellamy seconded the motioned. All were in favor. The motion passed 5-0-0. The meeting adjourned at 8:50 p.m.

Respectfully submitted by Sheryl DeWalt, contract secretary.