

**CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511**

Date: May 11, 2011

MEMORANDUM

TO: Captain Carl Gloede, Alder Marsha Rummel, Alcohol Policy Coordinator Mark Woulf, and Madison Plan Commission

FROM: Jennifer Zilavy

RE: Plan B Noise Issues

I have been made aware of complaints by individuals living in the general vicinity of Plan B, which is located at 924 Williamson Street, Madison, Wisconsin. In response to the complaints, I met with the owners of Plan B, Rico Sabatini and Corey Gresen, the building owner, Chuck Chvala, Alcohol Policy Coordinator Mark Woulf, and Officers Steve Magyera and Chris Masterson from the Madison Police Department. Based upon the complaints, it was determined that a starting point for addressing the noise complaints would be obtaining decibel readings of the noise emanating from Plan B.

I personally participated in the decibel readings with Bill Neitzel from the City's Building Inspection Department. Mr. Neitzel is experienced in taking decibel readings and is aware of various environmental factors that can affect a reading (wind, rain, traffic, etc.).

On Thursday, May 5-6*, 2011, at approximately 12:00 a.m., I arrived at Plan B. I stood outside for a while and listened to the music coming from inside the club. While I could hear the music and the bass, I did not find it to be unreasonable or overly loud. I walked around the outside of the premise and did observe several individuals standing in the back of the parking lot smoking and talking. I could also clearly hear these individuals from the sidewalk that abuts the parking lot.

I went inside the club and stood in the vestibule area for approximately 20 minutes watching how the crowd entered and left. At this point, the staff working at Plan B did not know who I was as I had not identified myself nor asked to see Mr. Sabatini. While standing in the vestibule area, I observed staff diligently checking ID's and monitoring their patrons both coming in and leaving. I was rather surprised at the large number of individuals Plan B had employed on their security staff and I observed these individuals all over the premise; inside, outside, patrolling the parking lot, supervising the parking lot, etc. I also observed that the front entrance door and the rear door that is used for an exit to the smoking area are constantly monitored and kept closed other than when patrons are entering or exiting the building. The doors were never propped open.

Around 12:30 I asked to see Mr. Sabatini. I was given a tour of the club and I was shown how the sound system works. Mr. Sabatini "red-lined" the sound system so I could hear the maximum volume. "Red-lining" is a term used to describe when the

sound system is as loud as it can go. After Mr. Sabatini turned the volume back to the operating level, we went upstairs and outside to the roof of the building. I could hear the music and the bass while on the roof, but again, the sound level was what I would deem reasonable.

Mr. Neitzel arrived at the club and we began taking the decibel measurements from approximately 12:30 through 1:40 a.m. It was a clear night with a very light breeze. The decibel meter was calibrated and the first reading was taken from the Southwest lot line of the Plan B property and measured 57.3db. We proceeded to the Southeast lot line of the Plan B property, where the decibel reading was 71.2db. We then went to the Northeast lot line of Plan B, which is adjacent to the area where patrons come outside to smoke. At this location, the decibel reading was 77.4db.

Prior to heading up to Jenifer Street, out of curiosity, we decided to take readings inside the club. The readings inside the club ranged from 97.2db to 114.6db.

Around 12:55 a.m. we headed up to Jenifer Street, via Brearly Street. I noted as we walked to Jenifer Street that I could not hear the music coming from Plan B. Once on Jenifer Street, as we walked in a westerly direction, I could not hear the music unless we stopped and stood still and listened hard. This was from the sidewalk area in the 900 block of Jenifer Street. The decibel readings from the front lot lines along the 900 block of Jenifer Street ranged from 43.1db to 45.9db. At 914, 916, 930, 936 and 928 Jenifer Street. We walked to the rear property lines and from those locations we could hear the music and we could intermittently hear people talking loudly and or yelling. The decibel levels at the rear lot lines were all under 50db. We could also hear traffic noise on Williamson Street. I did not find the music and bass levels to be unreasonable and in fact, found them to be quite reasonable. What I heard coming from Williamson Street and Plan B, is what I would term ambient city noise. Yes, you could hear it, but it was not excessive and I did not find it disturbing.

While on Jenifer Street I sent a text message to Mr. Sabatini and asked him to "red-line" the music. I was aware of a very slight increase in the sound of the music and the bass when it was "red-lined". Once the music was "red-lined", Mr. Neitzel and I walked from address to address listening to the sound and we also walked down a couple of driveways. As I stated, I noticed a slight increase in the sound and the bass, but it was not excessive or unreasonable. After approximately 15 minutes, Mr. Sabatini texted me back and asked if he could turn the music back down. During the entire 15 minutes or so that the music was "red-lined", I did not observe a noise level that would be deemed unreasonable and the noise level did not exceed 46 decibels.

After we finished taking readings on Jenifer Street, we walked back to the club via Brearly Street and again, until we were down on Williamson, I could not hear any music coming from Plan B. However, once we got to Williamson Street, I could hear some yelling and talking coming from the Plan B parking lot.

On Saturday, May 7-8*, 2011, I went to Plan B at approximately 12:00 a.m. I sat outside Plan B in my vehicle with the windows rolled up, approximately 75 feet west of the entrance. I sat in my vehicle until 12:30 a.m. While sitting there, I could hear the music

and the bass coming from Plan B, but the sound level was very faint. At approximately 12:30 a.m., Bill Neitzel arrived. He again calibrated the decibel reader and we began taking measurements. The measurement from the Southeast lot line was 54.4db. From the Northeast lot line it was 60.8db. The Northeast lot line is adjacent to the door that patrons come out to smoke in the parking lot. There were patrons in the parking lot smoking. However, it was interesting that the parking lot crowd was significantly quieter on Saturday night. Mr. Neitzel and I attributed the difference in the crowd to the fact that May 5-6, 2011, was an 18+ night and the crowd was much younger and more boisterous.

Mr. Neitzel and I walked down Williamson Street to Brearly and up to Jenifer Street. We noted that there was absolutely no wind and Mr. Neitzel said that he checked the weather before he left his house that evening and saw that the wind speed was listed at zero. As we walked to Jenifer Street, we could not hear the music or the bass. Once on Jenifer Street, it was very quiet. We walked down Jenifer Street again and went to the back of the lots at 914, 916, 936 and 922 Williamson Street. Mr. Neitzel and I found it remarkable how quiet it was, especially given that there was no wind and it was a very still night. No decibel reading was over 50 at any location on Jenifer Street. When we walked to the rear of the properties, we could hear the music and the bass and we could hear people talking in the parking lot of Plan B. However, we had to be standing still to actually hear it. Again, in my opinion, what we heard is what I would characterize as ambient city noise. Not unreasonable.

On May 5-6, 2011, we observed that the individual at 906 Jenifer Street was playing his or her stereo rather loudly. On May 7-8, the stereo was on rather loudly again, and Mr. Neitzel measured the decibel level of 906 Jenifer Street at that time to be 53.6db. At approximately 1:15 a.m., Mr. Neitzel took a decibel measurement from the South side of Williamson Street directly across from Plan B and the measurement was 49.4db.

Mr. Neitzel noted that Williamson Street is a busy street and that sounds of traffic, screeching tires and pedestrian traffic could be heard and observed while on Williamson Street and while walking to and on Jenifer Street.

We concluded measuring sound levels at approximately 1:15 a.m. on May 7-8, 2011.

In summary, the decibel readings as well as the personal perceptions of Mr. Neitzel and myself, lead to a conclusion that the sound level of the music and bass coming from Plan B is not unreasonable and is certainly not excessive. From what I observed, the owners have a very well-trained staff and are very conscientious of keeping their patrons in order. I think something could be done to minimize the noise of the patrons who are smoking in the parking lot—a fence in the smoking area that runs west to east across a portion of the parking lot seems like it would buffer some of the patron noise. Plan B is located in a mixed use area of the City on a street that has a significant amount of pedestrian and vehicular traffic as well as a number of restaurants, bars and coffee shops. It is a busy street with an almost constant hum of noise which is not solely attributable to Plan B.

*The decibel readings were taken on Plan B's Thursday and Saturday event nights. However, since we didn't begin until after midnight, the actual date of the readings was early Friday morning and early Sunday morning which is why the dates are listed as May 5-6 and May 7-8.

Copy: Rico Sabatini
Corey Gresen
PO Steve Magyera
PO Chris Masterson