



Office of the Common Council

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Dear ALRC members,

At your meeting tonight is the Entertainment License application for the Edgewater Hotel. There are many people who are interested in this license... people who hold events there, people who enjoy the free outside bands, Edgewater owners who are interested in the success of their business...and neighbors in the **noise impact zone** who have had their lives disrupted.

Unfortunately, to date, working with city staff and representatives of the Edgewater and neighbors in the noise impact zone, we have not been able to come up with a compromise regarding the requested Entertainment License. I was very disappointed that the Edgewater's suggested approach to the number of events came in so late (Monday afternoon September 11 at which time they made a commitment to provide additional information on September 12 which was not received) and that their approach still includes an unreasonable number of Entertainment License outdoor events in this heavily residential area.

Background and Context

I have heard a lot about noise and its impact on people's lives as alder of District 2...Central Park and Breese Stevens with their bands and sporting events, Ironman whose announcements start early and end late, and more. The impact on people's lives is real; the health effects from excessive noise...including not just the volume of the sound, but also the duration of the sound and the frequency of the noise is clearly real. There are many studies noting those health impacts. I think we would all also acknowledge that the fun and benefits of music events, of Ironman and of sporting events are a positive for the community.

I have been hearing from neighbors in the noise impact zone around the Edgewater since shortly after it opened and began having events there. Numerous promises have been made by Edgewater staff. I will mention only those having to do with noise and an Entertainment License. A promise kept has been shutting down performances (with rare exceptions) by 9:00 pm. That is appreciated by neighbors. However, the volume of amplified sound has continued to be a problem. And the number of events has continued to be a problem.

What I have found surprising is how some people who live at a distance from bands or sporting events seem to lack an appreciation of the impact. Some of the things expressed, in particular about the people disturbed by the Edgewater noise, include:

- These people are like someone who moves next to an airport and then complain about the noise of the airplanes. (Of course, in reality it is like people who have lived in a relatively quiet area having an airport plopped right next to their homes with the noise of the airplanes regularly departing and landing imposed on them.)
- I have also heard someone say that people who live near the Edgewater lost the battle over the location of the Edgewater...so just get used to the Edgewater noise.

- Some have said there are only “a few” people who live close enough to be bothered by the Edgewater noise and more who enjoy the events so the people who are bothered by the noise should put up with it...and some imply that since these people are “just” renters as opposed to homeowners they should move if they don’t like it.
- And Edgewater representatives have said that people staying or living at the hotel would be bothered first if there is a noise problem. However, the Edgewater sleeping rooms and condos are very well insulated to avoid the incursion of noise should guests so choose. They can close their windows and crank up the AC. Residents in the surrounding apartments don’t have the same kind of insulation from the noise and many do not have AC. And some just want to be able to open the windows of their homes for a summer breeze without the inescapable sound of bands.

In regard to noise conflicts in District 2, I have been satisfied so far with the give and take to get to a balance among those who enjoy events generating noise and those who are disturbed by the noise. My goal in the case of the Edgewater noise problem has also been to reach a reasonable balance.

Reaching that balance has been made additionally difficult by distributed misinformation. As I hope you know, the Edgewater did not stop having planned entertainment events due to neighbor complaints about noise as the Edgewater publicized on their social media and which the Wisconsin State Journal printed only this morning. It was due to the fact they did not have the required entertainment license. It is disappointing to have a publicity campaign include misinformation.

Reasonable Balance

The Edgewater has spent a significant amount of energy and time focusing on protecting their “rights” under the Public Access Management Agreement (PAMA) which they have posited includes a right to have live entertainment. However, as Assistant City Attorneys Jennifer Zilavy and John Strange point out, the Edgewater must get an Entertainment License to have live entertainment. This was also communicated back in 2014 by Assistant City Attorney Zellhoefer. Since the ALRC is responsible for recommending to the Common Council whether to grant an Entertainment License, this is not a step the Edgewater can skip. The Edgewater seems to have been implying that the only option for the ALRC is to recommend granting the license and simply rubber stamp whatever the Edgewater chooses to do.

I disagree with that view and ask that the ALRC seek a reasonable balance to protect the health and welfare of people in the *noise impact zone* while providing for outdoor live entertainment. It is not reasonable for the Edgewater to continue having the number of outdoor bands and amplified sound events they have had in the past, which in June, July and August last year was ~3 events/week which included loud (in the noise impact zone) bands.

Nor is it reasonable to allow the number of events which the Edgewater on Monday of this week suggested as a “voluntary” limit. The Edgewater managers have known for several years that the number of outdoor events is a problem. Their “voluntary” restriction is insufficient and it comes at a disappointingly late time in this Entertainment License application process and seems to lack the clarity needed to enforce the limit.

I found it interesting, in my review of Hotel Red’s application for additional stories on their hotel which came before the Plan Commission on Aug 14, 2017, that a condition of approval recommended by the Madison Plan Department and passed by the Plan Commission was “That amplified sound is prohibited at all times in all outdoor areas of the hotel.” This is a hotel that has significantly fewer people living in as close proximity as does the Edgewater. The city recognizes the deleterious impact that amplified sound can have on a neighborhood. And simply because someone lives in a downtown neighborhood or is a renter should not

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mean they should not have reasonable consideration given for their quality of life.

Condition Requested

The condition I request that you place on an Entertainment License for the Edgewater, if you choose to grant the license, is that there be no more than 15 *outdoor* events requiring an Entertainment License allowed in a calendar year.

This still allows additional Entertainment License events to be held inside the Edgewater every day of the year and allows events not needing an Entertainment License (such as the outdoor movie series) to occur outdoors every day of the year.

I note that the condition I am requesting is not in conflict with the PAMA. To make this number of outdoor events work, will rely on the Edgewater being a good neighbor and continuing to end their events at 9:00 pm, with rare exceptions, and to better control the volume of amplified sound.

I do understand and appreciate that the Edgewater is undertaking some initiatives in regard to getting the sound volume under control including use of the recently purchased "band shell". Due to its late order and delivery date, the ability of the band shell to control sound by better directing the sound has not been able to be adequately tested. The Edgewater is also suggesting they will improve the noise level impacting residents in the noise impact zone by managing the db level. Unfortunately they did not provide the requested and promised information about the db level readings they were getting so it is unknown whether what they are suggesting would work in this location with the close proximity of buildings reflecting sound and close proximity of neighbors in the noise impact zone. I encourage the Edgewater to continue to work with the city, the neighborhood and me on this noise control effort.

Thank you for your consideration.

Sincerely

Ald. Ledell Zellers
District 2
Madison Common Council