

March 12, 2014

Dear Members of the Arlington County Board:

We are a group of Arlington homeowners in the Altavista Condominium, located at 900 N. Stafford St., and the Berkeley Condominium, located at 1000 N. Randolph St. We submit this letter and the accompanying attachment in connection with the County's pending revisions to its Noise Control Ordinance (NCO).

We have reviewed the draft revisions prepared by County Staff (dated February 19, 2014), and we applaud the effort that the Staff has made to bring more objectivity into the NCO's noise standards. In keeping with the County's stated goal to encourage apartment and condominium development, however, we believe that the Staff's draft NCO can be improved and strengthened in several important respects.

First, the current draft singles out "R" districts for special protection not accorded to dwellings located in other districts. We believe that this discrimination is not justified. It is not only unjustified on self-evident fairness grounds, but, as a matter of policy, such discrimination is likely to have long-term adverse effects on the desirability of living in Arlington and, hence, on the achievement of the County's development goals. We therefore urge that the final NCO be fully inclusive so as to extend its protections equally to all Arlington homes and apartments.

Second, "Prohibited Noise," as specified in Paragraph 15-5, is tied solely to sounds that exceed the decibel levels in Table 1 of the draft NCO. This limitation ignores the new standards developed by the Staff that recognize disturbing noise as sound heard within homes a specified distance from the source. To avoid this inconsistency and possible enforcement gap, we urge that "Prohibited Noise" in the final NCO be defined comprehensively to encompass both sets of standards.

Third, the Staff's draft makes a distinction between "Nighttime" (as defined within the draft) and other times of the day. We believe that the protections of the NCO, particularly those affecting Arlington homes, should not be limited to nighttime, as residents should be able to enjoy quietude in their homes at all times of day. We therefore urge that the final NCO eliminate this distinction.

Fourth, as we read the Staff's draft, we are not convinced that it sufficiently protects against excessive and unreasonable human noise, whether generated by a single person, a small group, or a large crowd. Such noise is no less disturbing than mechanical or amplified noise. We therefore urge that the final NCO be clear that human noise is fully contemplated within its protections.

Fifth, as we read the draft, we are not convinced that it is sufficiently clear that businesses and their owners can be held liable for creating environments that facilitate or tolerate noise that exceeds the NCO's standards. For example, it likely would be difficult to cite a crowd for excessive noise. If that noise is facilitated or tolerated by a business, the County should be able to hold the business accountable under the NCO.

We therefore urge that the final NCO be clear that business proprietors, including owners and managers, will be liable for the noise environments that they create.

Sixth, we believe that the incentives for compliance with the NCO's standards should be strengthened to the extent legally permissible. In particular, we believe that the monetary fines for violations set out in the Staff's draft are too low in the context of the benefits that some businesses may enjoy by intentional compliance failure. We therefore urge that the monetary fines in the final NCO be increased.

For your consideration, we attach a document, previously discussed with three Board members, suggesting specific fixes to the draft NCO that we think address the above described points. Rationales for each of our suggested language modifications are also contained in the document.

We are not wedded to our specific edits. Rather, what is most important to us are the principles and the consequent goals embodied in the points above, and we recognize that County Staff has superior expertise in drafting code language. What we ask is that you give our concerns your full consideration and that the final NCO be accordingly drafted to account for those concerns.

Sincerely,

The Altavista/Berkeley Ad Hoc Committee of Concerned Homeowners.

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