



FINDINGS AND DECISION OF THE NOISE REVIEW BOARD

APPLICANT: BUREAU OF ENVIRONMENTAL SERVICES *TAMMY CLEYS*

VARIANCE NUMBER: 17-237049-000-00-NV

DECIDED: September 13, 2017

FILE COPY

DECISION: APPROVED WITH CONDITIONS

BACKGROUND:

Title 18 establishes sound levels based on the zones of both the source and receivers of noise. Events that produce noise above permitted levels may be considered for variance from the code. The Noise Review Board is charged by code to review and act upon some of these applications. The review must consider the physical characteristics; times & duration of the emitted sound; the geography, zone and population density of the affected area; whether the public health, safety or welfare is impacted; whether the sound source predates the receiver(s); and whether compliance with the standard would produce hardship without equal or greater benefit to the public. The code does not preclude review of other factors, nor does it specify the weight to be given to each criterion.

REQUEST:

Tammy Cleys, representing Bureau of Environmental Services, is requesting a variance for the Taggart Outfall 30 Sewer Repair Project at Grand Ave, SE 19th Ave, SE Milwaukie, and the pedestrian path east of SE Brooklyn, using the Tunnel Liner Plate construction between May through October, for the years 2018 and 2019.

FINDINGS:

- A. The public's health, welfare and safety are not affected by the anticipated noise levels, except possible temporary interference with sleep at later hours and for closer-in properties.
- B. The sound source does not predate receivers.
- C. The last criterion in reviewing Noise Variances speaks to a sort of "balancing test", in which compliance/non-compliance is measured against the "public good." Will the denying of this application produce hardship without equal or greater benefit to the public? Based on the potential traffic disruptions that would occur without this variance, the Noise Review Board finds that denying this request will not benefit the public good.

DECISION:

Motion was made by Kerrie Standlee to grant a variance with the conditions below. Jamie Hurd seconded the motion. The motion passed 4- 0. Board members voting: Melissa Stewart, Kerrie Standlee, Jamie Hurd, and Michael Wallace. Ryan Hyke was not present.

The Variance is approved with the following conditions:

- A. A noise variance shall be issued for work 24/7 on dry days between May 1, 2018 through October 31, 2018, and May 1, 2019 through October 31, 2019.
- B. From 6 p.m. until 10 p.m. the applicant will be required to use “smart alarm” back up beepers instead of a standard reverse alarm for all equipment activity.
- C. From 10 p.m. until 7 a.m., the applicant is required to disconnect the backup alarms and spotters will be used to safely back up vehicles.
- D. Any saw-cutting will be occurring during the day time hours.
- E. The applicant is required to use direct connection to power whenever possible. Use of gasoline or diesel generators or other stationary equipment shall be placed away from residential neighbors when possible, and at all times isolated from any residential neighbors with the safe use of an enclosure designed to reduce noise levels immediately outside all residential structures to a level no higher than 65 dBA.
- F. Notice to be mailed and emailed two weeks prior to start of work to all neighbors within 500 feet of the work site. Notice shall include the nature of work, anticipated noise sources and a contact phone number for a person on site to explain the work and possibly mitigate the issue.
- G. Noise Office must be notified of proposed staging areas related to night work and approve the location before the area can be used for night work.
- H. BES inspector shall be on site during night time work with a sound level meter to be able to confirm noise limits are met if complaints are received.
- I. Noise from all other equipment operating on the project shall be limited at all residential structures to no more than 70 dBA, including grout pump and vactor truck
- J. The applicant will send complaint reports along with a complaint log and details of how the problem was resolved to the City of Portland Noise Control Officer. These logs can be emailed to noise@portlandoregon.gov.
- K. The applicant shall prepare to develop a noise mitigation plan with the Noise Control Office should complaints arise.
- L. The noise variance will be reviewed upon receipt of complaints. If complaints are filed, the Noise Control Officer may modify the variance as needed to resolve community noise disturbances.
- M. Applicant will notify the Noise Control Officer when the project is completed.

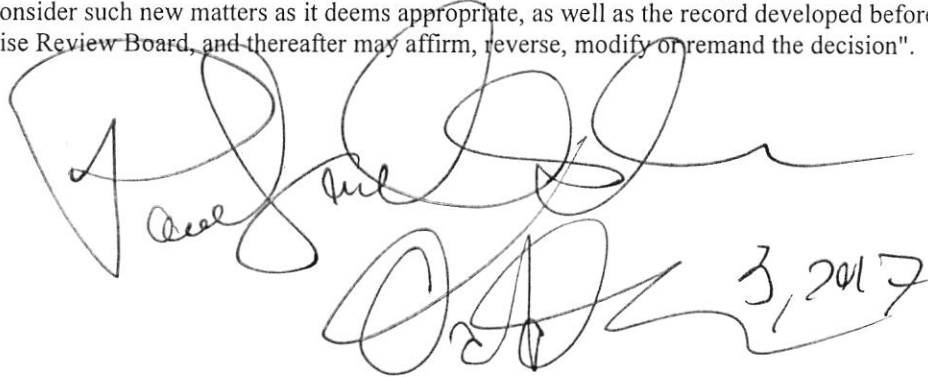
The applicant understands that this variance is subject to review upon complaint.

This decision becomes effective on September 13, 2017

APPEAL PROCEDURES: PCC Section 18.14.020 (i) states that "A variance decision of the Noise Control Officer or the Noise Review Board may be appealed to the City Council as follows: (1) A variance decision may be appealed by the applicant, his legal representative, or by any person who has submitted oral or written testimony on the application. (2) Notice of intent to appeal shall be submitted in writing to the City Auditor's Office within 10 day of the effective date of the decision. The notice shall identify the decision that is being appealed, and shall include the appellant's name, address and signature, phone number, relationship to the variance decision action, and a clear statement of the specific reason(s) for the appeal including alleged misapplication of City Codes.

(3) Upon receipt of such appeal, the Auditor shall then place the matter upon the Calendar of the City Council. At the time of hearing, the City Council may consider such new matters as it deems appropriate, as well as the record developed before the Noise Control Officer or the Noise Review Board, and thereafter may affirm, reverse, modify or remand the decision".

Paul van Orden,
for the Noise Review Board,
City of Portland

Handwritten signature of Paul van Orden and the date 3, 2017.