

Neighborhood Notification
Open House Information
Citizen Comments
Affidavit of Posting
Site Sign
Legal Protest

Citizen
Review

Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Tuesday, February 12, 2019 10:42 AM
To: Cluff, Bryan
Cc: Luke Skelton
Subject: Fwd: Fwd: Re: Request for resolution of noise from BLK Live
Attachments: BLK LIVE CUP COVER LETTERv2.docx; AttachmentA--BLKLive-AppealToRevoke-13-UP-2014.docx; AttachmentB--BLKLive-RequestedStipulations-13-UP-2018.docx

Hello Bryan,

Regarding BLK Live application for live entertainment CUP.

I left you a voicemail message this morning, and this email is a brief followup. Can you please call me? Two main things I am asking...

1) Can I please get a copy of your staff report, or can you tell me where to find it? Someone is asking for us to attend a meeting between our Stop The Noise Scottsdale Coalition and BLK Live. I don't understand the agenda yet, but was told that this person wants to see whether a compromise can be reached. City Council members will be attending, and I learned this morning that your staff report will also be presented. Our group would like to be prepared for this meeting, so we need to see the staff report.

2) I sent you this message copied below, to compliment what we had sent earlier. But, I never heard back from you on it. Did you get it and were you able to include some of the additional input in your report? As mentioned, it addresses our primary concerns and requests, specifically about their application.

Thank you so much.

Luke

----- Forwarded Message -----

Subject:Fwd: Re: Request for resolution of noise from BLK Live

Date:Mon, 4 Feb 2019 22:13:34 -0700

From:Luke Skelton <lukeskelton@cox.net>

To:Cluff, Bryan <BCluff@Scottsdaleaz.gov>, Amy Satterfield <mamsat5@cox.net>, Richard Lew <rickmail48@yahoo.com>, Bruce Hallin (Scottsdale neighbor) <brucehallin@q.com>, Barb Hallin (Scottsdale neighbor) <barbhallin@q.com>, McNerney Joe <joe@joemcinerney.com>, Kathi & Richard Haas <haasienda@cox.net>, Bob Giammarco <Giammarco@gmail.com>, Sigona Jon <sigona@hotmail.com>, Luke Skelton <lukeskelton@cox.net>, Susan Skelton (gmail) <saskelton7@gmail.com>

Hi Bryan,

Glad to hear you received our message last Monday morning, along with the detailed requests, as enclosed.

Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Monday, February 04, 2019 10:14 PM
To: Cluff, Bryan; Amy Satterfield; Richard Lew; Bruce Hallin (Scottsdale neighbor); Barb Hallin (Scottsdale neighbor); McInerney Joe; Kathi & Richard Haas; Bob Giammarco; Sigona Jon; Luke Skelton; Susan Skelton (gmail)
Subject: Fwd: Re: Request for resolution of noise from BLK Live
Attachments: BLK LIVE CUP COVER LETTERv2.docx; AttachmentA--BLKLive-AppealToRevoke-13-UP-2014.docx; AttachmentB--BLKLive-RequestedStipulations-13-UP-2018.docx

Hi Bryan,

Glad to hear you received our message last Monday morning, along with the detailed requests, as enclosed.

As a compliment to what we send at that time, I am sharing some additional input we have here, which more specifically addresses details of the BLK Live CUP application. Some of this input here is sourced originally from Scottsdale residents experienced in sound, as explained below...

Among the Scottsdale neighbors impacted by noise from BLK Live, we have a professional sound engineer as well as an officially credentialed professional engineer (PE) that also understands sound. Input from both of these residents is included here.

If the City intends to decline this live entertainment CUP then these details are not as important at this time. But, if the City is entertaining the option to consider granting the permit, then the details of our input is very vital.

1) FIRST: BLK Live states in section 12 of their application that they have never violated the Noise Ordinance, and they make it clear that this is what they intent to continue to conform to in the future. In the meantime, they are silent about the more restrictive stipulation #4 of their CUP, which is intentionally added to further protect the citizens. As you know, this stipulation plainly says the noise must not be greater than ambient noise level or character of the area during hours of operation for this CUP. This is why this particular stipulation must be rewritten to become measurable and enforceable, as discussed in Attachment B. It simply can not continue to be ignored.

2) SECOND: in regards to their request for a larger stage, they suggest that "*stage size has no correlation on sound produced by the venue.*" They then go on to say that, "*Noise production is more reflective of sound systems, speakers, volume controls, noise mitigation measures and other factors.*" Although this is partially true, it is also partially false and it is also very misleading. Therefore, clarifications and additional information is needed.

BLK Live are only requesting to increase the size of their stage. That alone can in fact result in more noise because they can have larger bands with more instruments. In addition to that, however, we believe that BLK Live has also substantially increased the size, power and noise generation capacity of their sound system. The size and output capacity of a sound system, including speakers, amplifiers, etc, will naturally influence how loud they can operate, just as BLK Live said in their application. This has been the case here, as evidenced by the noise complaints that started since the stage and sound system were changed. They did not have the

capability to install and hang the powerful 12 cabinet speaker array system before they installed their truss system, which is an integral part of the larger stage they now use. Therefore, they must have upgraded the sound system.

They provided spec sheets and make/model information for their lighting, in addition to drawings of their proposed Site Lighting Plan. But, they did not show any such spec sheets, make/model, or Plan for their extensive new sound system. This lack of information leaves the City and its citizens uninformed about what is arguably the most important information about this CUP to the community.

3) THIRD: They have said that a stage is temporary. We request that they move their stage and redirect the speakers to the Northwest, following the direction of airport runway instead of South toward established residences.

4) FORTH: They are requesting (in 12.c.) to be allowed to extend the "self-imposed" operating hours curfew from 11pm every night to 11:30pm on weekdays and 12:30am on weekends. This will only multiply the noise problems that us residents are already experiencing. As mentioned in Attachment B, we are instead proposing that the hours operation for this CUP be officially reduced to end at 9:00pm, which is we understand is equivalent the hours of operation for other restaurant/bar businesses successfully operating in the area with the same outdoor live entertainment CUP, and also with no citizen complaints to law enforcement.

5) FIFTH: They suggest (in 12.a., b, and d.) that they have taken measures to control and mitigate noise from their venue by removing a minority portion of their speakers, tilting the remainder down more, and measuring the level of noise at the source to ensure it does not surpass the noise ordinance. In fact, though, according to our sound professionals, the size or number of speakers they removed would not have significantly affected how much noise can be generated by their system. Based on the extensive size of their system, they are still able to generate the same amount of noise that they were making before the change by simply turning up the volume.

The changes they made to their sound system was done before our meeting with them last Spring, and their sound engineering consultant showed us these changes they mentioned in their applications during our visit to BLK Live at that time. But, there has been no discernible difference in the amount of noise we hear since then, as evidenced by the continued noise complaints to law enforcement.

NOTE: It would be helpful to understand the specifications of the original sound system that was replaced. This would be a true measure of how their noise generation capacity has in fact increased.

6) SIXTH: They say (in 12.d.) that they are using calibrated sound level meter to monitor the "Front of House" (which is inside their premises), and they argue that this will ensure the noise level at the nearest residence will not exceed the noise ordinance of 68 dB. Three problems with this statement. **First**, our professional engineers confidently state that there is no way to ensure that by measuring the noise level at the source (Front of House), this will ensure that the noise level at the nearest residence some distance away will be lower than 68dB. This is impossible since there are numerous uncontrollable factors between the source and any residence. **Second**, although they are using specific dB levels in their explanation, there is no indication in this statement of how far away the "closest residential line" is presumed to be from their facility. Is it 1 mile away to the South, 0.5 miles away to the SW, or 300 ft away to the North, all of which are legitimate? **Third**, they are ignoring stipulation #4 of their CUP, which states noise level generated from this CUP must not exceed ambient noise level of the area. FYI, ambient noise level of the area during the regular hours of

operation for this CUP, which is in the range of about 40-50dB, depending on where it is measured from, not 68dB.

IMPORTANT: Every 3dB increase in noise level is equivalent to doubling the amount of noise being produced. For instance, if we assume that ambient noise level is 45dB, then noise coming from BLK Live that is 48dB (3dB increase) would result in making the area twice as noisy as it would otherwise. Since BLK Live is measuring themselves again 68 dB, which is almost 8 times as loud as ambient level of the area, we hope this helps clarify why we are experiencing so much of a problem with noise level being produced by BLK Live today.

7) SEVENTH: Since they are not effectively self-policing the noise generated from their own venue in order to protect the right to quiet enjoyment of our properties and prevent ongoing noise complaints, it is appropriate for other controls to be implemented. One effective option, which has been implemented in other jurisdictions, as we outlined in Attachment B, is to install automatic noise measurement and enforcement equipment, which will ensure that either they control the noise level properly or else they automatically receive a citation for each violation. Since they are producing the noise and applying for a permit that has already demonstrated to be a nuisance to the community, it seems proper that they pay for such equipment and monitoring.

8) EIGHTH: They are proposing two additional sound mitigation measures. Due to the fact that noise abatement and mitigation measures they have taken up to this point have been ineffective, we believe that any further noise abatement measures should be demonstrated as effective for an extended length of time before any permanent permit is considered for this venue, and even then it should be handled as temporary and revokable.

9) NINETH: Although the drawings are not clear, it appears from their drawings that the proposed sound barriers will only be applied to the South and West of their patio, adding no further abatement for noise traveling to the North. There are hundreds of multi-family dwellings situated not more than 300 ft North of the stage area today, and more being built. The City of Scottsdale has zoned for these housing developments, so they need to account for them. The speaker arrays are much higher than the current fabric wall that is installed around the patio, including on the North side. You can see the stage and speaker arrays from the street at the ground level, as shown in the North Elevation picture. Therefore, additional noise abatement will be required to the North end of the patio, just as it is required to the South and West sides.

10) TENTH: As part of this application, they are proposing to increase the size of their patio area, which will mean more customers and more noise. We request that this request be rejected unless and until they demonstrate a dramatic change in their operation.

11) ELEVENTH: Because BLK Live has demonstrated that they can become a nuisance to the community for many months, resulting in regular visits by law enforcement due to noise complaint calls, and yet they can argue that their facility is not violating the City's Noise Ordinance, we conclude that there is a problem with the Noise Ordinance as well as the City's policy for handling problematic situations like this. We, therefore, request that the Ordinance and policies to handle enforcement need to be reviewed and modified as appropriate.

Please confirm that you received this, and don't hesitate to call or email me back with any questions, etc.

Thank you so much,

Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Monday, January 28, 2019 3:50 AM
To: Cluff, Bryan; City Council; Keagy, Raun; Keagy, Raun; Weiss, Kit; Coffee, Christopher - 717; Gollihar, George - 752; Korte, Virginia; Meyer, Gary; Phillips, Guy; Hill-Enriquez, MarJan; Lane, Jim; Littlefield, Kathy; Kuester, Kelli; Milhaven, Linda; Klapp, Suzanne; Thompson, Jim; Rodbell, Alan - 855; Grant, Randy
Cc: Susan Skelton (gmail); Barb Hallin (Scottsdale neighbor); Bruce Hallin (Scottsdale neighbor); McInerney Joe; Kathi & Richard Haas; Kathi Haas; Amy Satterfield; Richard Lew; Sigona Jon; Bob Giammarco; Luke Skelton
Subject: Re: Request for resolution of noise from BLK Live
Attachments: BLK LIVE CUP COVER LETTERv2.docx; AttachmentA--BLKLive-AppealToRevoke-13-UP-2014.docx; AttachmentB--BLKLive-RequestedStipulations-13-UP-2018.docx

Hello again everyone,

Please use the enclosed updated cover letter and 2 attachments for the permanent record and for any distribution, instead of the ones sent 1/25/2019. This version of the cover letter contains a few important corrections that have been made. The 2 attachments remain unchanged in content, but the file names and document headers are corrected. Please confirm.

Thank you,
Luke Skelton on behalf of Stop The Noise Scottsdale Coalition Scottsdale resident since 2004

On 1/25/2019 5:51 PM, Luke Skelton wrote:

> Honorable Mayor Lane, City of Scottsdale Councilpersons and City of
> Scottsdale Officials,
>
> I am enclosing the official request of our Stop The Noise Scottsdale
> Coalition (contained in 3 enclosures) regarding the live entertainment
> CUP currently under consideration/review by the City of Scottsdale for
> the applicant known as BLK Live.
>
> In short: We, the residents of Scottsdale and Phoenix, living in close
> proximity to BLK Live, located at 7301 E Butherus Dr, Scottsdale, AZ
> 85260, call for the Scottsdale Planning Commission and Scottsdale City
> Council to either revoke or substantially modify the stipulations of
> the Live Entertainment - Conditional Use Permit (CUP) for BLK Live.
>
> Please refer to the enclosed 3 documents for the details of our request.
>
> Thank you very much for your attention to this most serious matter to
> the Scottsdale and Phoenix residents in the area.
>
> Best Regards,
> Luke Skelton on behalf of Stop The Noise Scottsdale Coalition
> Scottsdale resident since 2004
>

>

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> This email has been checked for viruses by Avast antivirus software.

> <https://www.avast.com/antivirus>

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Thank you and God bless, Luke Skelton Good News TV/GNTV Latino MyGoodNewsTV.com

January 23, 2019

The following 13 pages are the referenced attachment to Mr. Skelton's January 28th email.

RE: APPLICATION #13-CUP-2018

To whom it may concern:

We are writing to you on behalf of City of Scottsdale and City of Phoenix homeowners in the area surrounding BLK Live (hereafter referred to as "the applicant"), who have been negatively impacted on a consistent basis as a result of music played from this live, outdoor concert venue.

Since the Fall of 2017, neighbors have attempted to address this issue by meeting with city officials and the applicant in order to mitigate the noise affecting homeowners. Although the applicant has stated changes have been made, the noise continues to disrupt the peace and quiet of homeowners up to two miles from the venue. Numerous noise complaints have been filed with City of Scottsdale's non-emergency number and letters have been sent to the appropriate parties with the city.

It is our understanding that the applicant has been in non-compliance with their existing CUP for several months and as a result has been cited and fined. In an effort to come into compliance, they have resubmitted with the city making changes and additions to their current CUP.

While city staff reviews this case, we respectfully request the following:

1. Revoke the applicant's CUP - this is preferred as the complete revocation of the CUP would solve the issue and no longer allow the CUP to run with the land. See attachment A.

OR

2. Require the applicant to completely enclose their concert area including the stage, speakers and public area. Enclosing the area would limit the area where sound travels as it would no longer be an outdoor concert venue.
3. Deny the applicant's request to enlarge the stage as the larger size is in direct proportion to the size of the band and subsequently the crowd that attends creating more noise.
4. Make significant modifications and additions to the existing Stipulations for their CUP in an attempt to effectively mitigate the noise traveling to residential homes and the Seventh Day Adventist boarding school campus in the area, giving law enforcement the measurable information they need in order to adequately enforce this particular CUP. See attachment B.
5. Clearly define, expand and modify the verbiage in the City's Noise Ordinance as appropriate, similar to what other cities have done, to include but not be limited to definitive acceptable decibel levels of both ambient noise vs excessive noise, distance affected, type of environment, etc. Provide exterior noise level standards that take into account the surrounding area, and not just a blanket citywide standard since as noise travels differently from each venue, etc.
6. Change the City's policy for granting CUP's to become per tenant rather than per property owner, since the current policy of allowing the CUP to run with the land puts neighborhoods at a distinct disadvantage while giving new tenants an inappropriate privilege they have not earned.
7. Change the City's policy to include the opportunity to revoke CUP's for businesses by becoming sensitive to complaints of and issues for residents and businesses in the surrounding area, as well as being sensitive to whether the permittee is complying with the stated conditions for their permit. If not, then the City is not actually granting a "conditional

use permit", but rather a "unconditional license". As we understand it, the City of Scottsdale is not known to revoke a CUP once granted.

8. Provide an opportunity, perhaps within the Noise Ordinance, for the City to pursue compensation from the property owner (not tenant) in the case that a tenant is causing repeated/regular noise disturbances, which require responses from law enforcement officers, thereby preventing the officers from responding to other calls. This has been implemented in other cities, such as Flagstaff, to curtail repeated offenses from problematic noise and related disturbances at residences. This should be affective for both residences and businesses for Scottsdale. This policy should not be connected to whether the noise ordinance is violated. Rather, it should be tied to whether law enforcement is called to respond to a noise complaint. The amount of compensation should be set to a value considered punitive to the offender in order to resolve the problem. So, for a residence the value of an offense would be set to one level, while for a restaurant/bar the value would be set to another level.

We have attached our reasoning and argument for item number one as well as some ideas for acceptable stipulation modifications and additions if ultimately approved. This is not an all-inclusive document as we would like the opportunity to review prior to any final drafts being submitted for approval.

As mentioned in Attachment B, if the city is inclined to approve the CUP, we strongly believe it should be done on a probationary basis so that any suggested noise mitigation has the opportunity to be proven effective. If the stated mitigation measures do not work in a given time period, based on clearly defined measurements, the CUP should be denied.

While the applicant states that they have never exceeded the 68 dB code requirement, sound continues to travel, reaching homes up to two miles away. Since sound is unable to be seen and travels differently based on weather, surrounding buildings and other fluctuating factors, it is unreasonable to assume that 68 dB is the only acceptable measurement.

In addition, the applicant has ignored their own CUP Stipulation #4 when arguing in their application that they have never violated the Noise Ordinance of the City code. This, as addressed in Attachment B, is likely because the stipulation, as stated, is simply not defensible or enforceable, so it has been ignored by both the law enforcement and the applicant. We argue that since these stipulations are written specifically to protect the public, this stipulation must become enforceable.

When reviewing other Arizona city's noise ordinances, we discovered the following, and ask that Scottsdale please do similarly:

Flagstaff's states, "it shall be unlawful for any person, while outdoors or within a residential unit, to make or permit to be made any noise which is **clearly audible within a residential unit** other than that from which the noise may have originated."

They have made it clear that regardless of what a sound level meter reads, if it is clearly audible while outdoors or within a residential unit, it is still a disruption of the peace and needs to be corrected. This should apply not only to residences, but businesses that are disturbing residences.

Additionally, the city of Tucson's noise ordinance states,

"The following activities are prohibited if they produce plainly audible sound beyond the property line of the property on which they are conducted and they disturb the peace and quiet of a neighborhood or person.

(1) Allowing or causing any continuous or intermittent noise that persists for a period of at least fifteen (15) minutes and which is caused by using, operating or permitting to be played any radio, television, tape deck, record player, amplifier, musical instrument, or instrument, machine or device used for the production, reproduction or emission of sound."

Again, Tucson has taken a similar approach, stating that it is when the sound is clearly audible beyond the property line that a disturbance in the peace and quiet of both neighborhoods and people is being caused.

The applicant is also proposing to adjust their show hours to end at 11:30 pm Sunday through Thursday and 12:30 am Friday and Saturday. These hours are unacceptable and will significantly and negatively impact homeowners. The city of Tucson's noise ordinance limits higher levels of sound past 10 pm. Allowing the applicant the further extend their hours will be a nuisance further disrupting homeowners' sleep and general well being.

While these two cities have different and more restrictive noise ordinances, we feel this area of north Scottsdale deserves the same consideration. The area surrounding Scottsdale Quarter is highly sought after by developers, and the continued noise generated by the applicant will only detract from the area.

It is our hope the City of Scottsdale will consider these requests based on the negative impact the applicant has had on the surrounding homes, all of which have been in place long before the applicant opened for business in their current location. Scottsdale residents and voters are appealing to city staff and elected officials to act on their behalf to protect their peaceful enjoyment of their homes.

Sincerely,

Stop the Noise Scottsdale Coalition

Luke Skelton
Susan Skelton
Barb Hallin
Bruce Hallin
Joseph McInerney
Kathi Haas
Amy Satterfield
Richard Lew
Bob Giammarco

Enclosures:

Attachment A: AttachmentA--BLKLive-AppealToRevoke-13-UP-2014.docx

Attachment B: AttachmentB--BLKLive-RequestedStipulations-13-UP-2018.docx

Attachment A

REQUEST FOR REVOCATION OF LIVE ENTERTAINMENT CONDITIONAL USE PERMIT (CUP) AND RELATED APPLICATION

To: Scottsdale City Planning Commission and Scottsdale City Council

From: Residents in communities surrounding BLK Live

Re: Revocation of Conditional Use Permit—Live Entertainment for BLK Live Case # 12-UP-2013 and 13-UP-2018, dated 1/4/2019

We, the residents of the city of Scottsdale and the city of Phoenix, which are living in the communities surrounding the facility in question (hereafter referred to as “Residents”), appeal to the Scottsdale Planning Commission and Scottsdale City Council to revoke any Live Entertainment - Conditional Use Permit for the business, located at 7301 E Butherus Dr, Scottsdale, AZ 85260 (hereafter referred to as “BLK Live”).

The reason for this request is that the observed characteristics for use of this business, described by the current tenant as “*an outdoor live music venue with exterior speakers*”, are incompatible with the right of quiet enjoyment and use for the residents in the established neighborhoods surrounding this venue up to 2 miles away from the stage where the live music performances are held on a regular basis. (See CUP current permit 12-UP-2013 as well as CUP application 13-UP-2018, 7/20/2018, currently under review by the City of Scottsdale.)

The quiet enjoyment and use of our neighborhoods surrounding their facility, which were established at least since the early 1980s, are being disrupted on a regular basis by the loud and incessant noise coming from BLK Live outdoor rock concerts, held multiple nights per week, especially during cooler times of the year (8-9 months/year), when the Residents historically spend time enjoying the outdoor weather. In addition to our neighborhoods, the dorm students, faculty, and supporting staff living on the campus of Thunderbird Adventist Academy, are also being impacted in the same manner.

The BLK Live management has stated in various ways through their current application with the City of Scottsdale, 13-UP-2018, dated 7/20/2018, that they are well aware of the fact that the noise from their venue is causing problems in our community. For instance, they say in two places that “many noise mitigation measures have, and will continue to be taken and the venue will continue to be in compliance with the City’s noise ordinance and requirements”, and yet the noise continues to be blasted into our neighborhoods, unimpeded. (See their explanation in CUP application narrative, p. 1, PROJECT NARRATIVE, final paragraph; also APPROVAL CRITERIA, Section A.; also p. 2 Section C. 2.)

In addition to the Approval Criteria already mentioned in the CUP document currently under consideration that specifically addresses noise, we point your attention to Section B of the same APPROVAL CRITERIA, in which the City of Scottsdale requires that *“The characteristics of the proposed use are reasonably compatible with the types of uses in the surrounding areas.”* We, the Residents, argue that the observed characteristics of use associated with this CUP are consistently out of harmony and incompatible with our established surrounding communities.

1. The business has been operating in violation of City Ordinance #3912, which states in Sec. 19-26.A. that, *“It shall be unlawful for a business that serves alcohol or provides live entertainment to create unreasonable noise that through its operations disturbs the peace or quiet of a residential district that contains dwellings”*. The unreasonable noise continues, even after regular visits from the Scottsdale police in response to repeated complaints from many residents in the area, repeated calls from residents to their management, and a meeting hosted by BLK Live management at their facility, in which city officials, police, and residents in the neighboring communities discussed this matter with them civilly together.
2. The business has been operating in violation of the City of Scottsdale Zoning Ordinance for Conditional Use Permits, Section 1.401, A. 1., specifically addressing *“damage or nuisance arising from noise...”*, which states:

“A. That the granting of such conditional use permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council’s consideration shall include, but limited, the following factors:

1. *Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.”*

The business has in fact caused damage and repeated nuisance from noise to the Residents in surrounding communities. Because this noise would need to be disclosed in future home sales, this damage would include less attractiveness of the area, which would therefore result in loss in resale value. The nuisance is preventing the Residents from reasonably enjoying their properties, which they have invested in heavily.

3. The business has been operating in violation of their Conditional Use Permit, Case # 12-UP-2013, which states in the list of Stipulations that, *“In addition to the City’s Noise Ordinance (Ordinance No. 3192, Article II, Chapter 19 of the Scottsdale Revised Code), noise generated from this use, including any speakers or other amplification equipment, shall not exceed ambient noise levels consistent to the use and the character of the area”*.

When addressing this Zoning Ordinance in the APPROVAL CRITERIA for their current application, 13-UP-2018, they specifically singled out their discussion of *“noise”* from the Zoning Ordinance, stating that *“Noise mitigation measures have and will continue to be taken, and the venue will continue to be in compliance with the City’s noise ordinance*

and requirements". But, they did not address Stipulation #4 of this permit, which states that such noise "*shall not exceed ambient noise levels ... of the area during hours of operation*". The noise levels from the facility, especially that generated by the live entertainment portion of their operation, significantly exceeds the ambient noise levels of the area during the hours of their operation on a regular basis.

In summary, we argue that the granting of this Conditional Use Permit, which is the only permit for outdoor Live Entertainment of its kind in the Scottsdale Airpark that is causing problems for residents in the surrounding neighborhoods, has in fact been "*materially detrimental to the public health, safety or welfare*" for us, your voting Scottsdale residents. It has further caused material "*damage*" to our properties and has been a consistent "*nuisance*" to our residences, violating our right to peaceful use of our properties and restful sleep, as the noise levels far exceed the "*ambient noise levels*", even at a distance of two miles from their business, let alone the ambient levels of the area, normally defined as a distance of 100 ft from the premises.

(See Zoning Ordinance, CUP, Section 1.401, A.)

We, as long-time residents of Scottsdale, have not been able to enjoy our properties (inside or outside) since BLK Live has started using the facility as an outside concert venue. This has lasted week after week, month after month, and now year after year for the last couple of years. This problem has not only resulted in us losing the enjoyment of our homes as a substantial nuisance, but it also threatens to lower the value of our properties.

We have spent a lot of our personal effort and time to take several measures within our ability to try to patiently correct the loud noise coming from this facility. Unfortunately though, none of these measures have resulted in any correction or noticeable improvement to the problem.

We have:

- Called the police regularly to complain of noise, up to 2 miles away.
- Called the facility management to ask them to lower the noise.
- Hosted a community meeting, to discuss with city officials about the problem and determine our course of action.
- Met with the facility management, who offered to make changes to their facility, and claim to have made them.
- Met with the City Planner, to ask what steps we can take.
- We have taken our own noise level measurements in the area.
- Organized a group of concerned citizens in order to take appropriate action.
- Hosted a second community meeting, to share with our community about the problem and update on the status and next steps.
- Started a petition drive to demonstrate the size of problem to the City.

As City officials have said, '*nobody thought that we would have problems*' with granting this special use permit because there are no homes within the immediate vicinity. But, we hope that the City officials now realize this permit is in fact causing unacceptable major issues. We have also heard from the Scottsdale Police officers responding to the noise complaints that they are "*frustrated*" and "*there is nothing we can do*" because the business has been granted this CUP.

These noise issues and related complaints are continuing today, and the complaints are coming from residents in homes that have existed since mid-1980s and earlier, which is over 30 years before BLK Live started their outside concerts just two (2) years ago.

Because the facility has taken several measures, none of which have helped, we ask that the City of Scottsdale to conclude, as we have, that operating this type of venue is simply incompatible with being close to our homes. We, therefore, request that their permit be revoked.

Further Discussion and Considerations:

Comparing a Rock Concert to an Airport. BLK Live has stated in their application for requested modifications their CUP, that their business is in the area of the Scottsdale airport, suggesting that the noise level in the area is already loud. Scottsdale airport, however, does not have planes taking off constantly for 3-4 hours in the evenings. Furthermore, the homes were built with the knowledge that the airport exists, while BLK Live is a recent tenant.

Noise caused by the Scottsdale Airport is very dissimilar to the noise of a rock concert like this venue, which is very diverse, composed of rapid changes in tone and levels and frequencies, and simply cannot be ignored like airport noise.

Since the business has compared the noise level of their business to that of an airport, this suggests that the zoning for their business should be revisited, possibly reclassified it from C2 (medium commercial), as a restaurant/bar, to something more applicable like C4 (heavy commercial), which is where substantial noise is expected. If this were done, then this would again point to the incompatibility of co-locating this business near to residential neighborhoods.

Comparing this Concert Venue To Another Concert Venue. Although both BLK Live and Ak Chin Pavilion (formerly Desert Sky Pavilion, in Phoenix) operate in a similar fashion, as an outdoor concert venue, there are striking differences in how the facilities are designed and constructed.

Ak Chin Pavilion, built in the 1980s, was specifically designed as an outside concert venue prior to surrounding residences, with very unique architectural characteristics which effectively retain and abate noise for their concerts. This includes an expansive property, stage situated below ground level in the center of the property, a steeply sloping earth grade that surrounds the stage about 300 ft diameter that creates an earth wall that is about 30 ft above the surrounding grade of their parking lot and general terrain, and noise abatement walls installed on top of the 30 ft earth wall, which reaches about another 12 ft higher, totaling over 40 ft above the surrounding terrain. This design creates a very effective noise barrier for their concerts.

BLK Live, on the other hand, a lessee of their property for the last 2 years, is situated in a very small commercial property in the midst of many other retail and commercial businesses, and directly adjacent to Scottsdale Quarter, which contains hundreds of multi-family residences (apartments), which have a clear line of sight to their stage, not more than 300 ft away. Their

facility is designed as general commercial or retail, and it is not capable of effectively controlling noise from an outdoor live concert with powerful amplified speakers. Their stage, instead of being below ground level, is actually elevated about 4 ft above the ground level. The amplified speaker arrays are suspended on a truss system above that, which is only about 20 ft from the fabric wall erected at the back of the stage. This fabric wall, which surrounds their outside patio area where the concerts are held, is not even as high as the speaker arrays. This is the only noise abatement used at the facility, even though police have responded to noise complaints from Scottsdale and Phoenix residents on a regular basis ever since they started operating as an outside concert venue, approximately 2 years ago.

Furthermore, Ak Chin Pavilion was established in the early 1980s, long before the homes were built around it, so the residents were informed about this when they purchased their property. On the other hand, BLK Live started to operate with their CUP less than 2 years ago, while the residences surrounding the business, including those to the East, West and South, have been established for up to 60 years. If this business continues as a concert venue then we anticipate having to ethically disclose this for any sale of our homes, which will negatively impact the value and popularity of our community.

Attachment B

REQUESTED STIPULATIONS AND TERMS OF OPERATION FOR CONDITIONAL USE PERMIT (CUP) APPLICATION #13-UP-2018, DATED 1/4/2019, FOR LIVE ENTERTAINMENT AT BLK LIVE

If the City of Scottsdale decides to grant the live entertainment CUP to BLK Live, which the residents of both Scottsdale and Phoenix in the area are requesting not be done due the ongoing noise problem that has continued since early 2017, then we further request that Scottsdale substantially modify the CUP and associated Stipulations to correct the noise problem. We have listed some recommendations for modifications to the Stipulations, below. These recommendations are not to be considered complete.

1. CLARIFICATION TO STIPULATION #4, regarding NOISE, to include additional language, below (additions shown in red text), which will retain the intent of this Stipulation while making it measurable and therefore enforceable, which is appropriate and necessary. This clarification will thereby help to ensure that nearby businesses and residents alike will not continue to be negatively impacted by unreasonable operations by BLK Live or any future tenant at the facility. This will further ensure that the operation of this business will return to how the previous tenants operated, which will also ensure that police officers are not repeatedly contacted with complaints from many residents multiple times per week during the cooler months of the year.

“NOISE. In addition to the City’s Noise Ordinance (Ordinance No. 3192, Article II, Chapter 19 of the Scottsdale Revised Code), noise generated from this use, including any speakers or other amplification equipment, shall not exceed ambient noise levels consistent to the use and the character of the area (at a distance of 100 feet from the source in all directions) during hours of operation for the live entertainment, as determined by the Zoning Administrator, or designee. Ambient Noise Levels are defined by the City of Scottsdale as: A weighting of 50 dBA for 11pm – 7am, and 55 dBA for 7am-11pm*; and C weighting of 50 dBC for 11pm – 7am, and 55 dBC for 7am-11pm. Fast Response must be used to measure noise levels from the facility instead of Slow Response since Fast Response is used when noise level varies rapidly, which is expected in this case. C weighting must also be used to measure noise levels from the facility since it more accurately measures the transmission of this style of noise, including bass noise, such as from bass speakers, which is expected in this case.”**

* These A weighting levels listed are based on established “noise level standards” published by the City of Scottsdale, which are the maximum acceptable levels for

a CUP in non-residential areas, as parks that receive a CUP. See Section 5.2808. of the Zoning Ordinance.

** C weighting is used to more accurately measure higher noise levels, particularly where the transmission of bass noise (such as from bass speakers) can be a problem, like some entertainment.

If the City of Scottsdale feels that utilizing the Ambient Noise Level guidelines specified from Section 5.2808 of the Zoning Ordinance is not adequate for this case (as specified above), then we request that the Zoning Administrator take measurements in the area around BLK Live during the hours of operation when they normally operate with this CUP (various times between 9:00pm – 11:00pm), particularly to the South and West of BLK Live, where the highest concentration of residential zoning has complained of the noise.

2. In order to abate the noise that consistently comes from the facility and disrupts our residences during their business hours, and especially during the live entertainment periods, we request that facility modifications are made and proven to work before any CUP is granted. This is requested in order to protect our residences from this ongoing noise problem. Noise abatement measures include:

- A. Abatement of medium and higher pitch sounds:** Change the direction that the speakers are facing, from South West to North East. This can be accomplished by moving the stage from the North East end of the patio where it is today to the South West end of the patio. This will result in the speakers being faced in the opposite direction to today, which is also the opposite direction of residentially zoned households complaining today are located. Also remove the speaker line array and bass speakers, designed for installations high above the ground for a large concert venue like Ak Chin Pavilion, as described in Attachment A, and replace it with a speaker system suitable for the small patio area being covered. The top of the speakers should not exceed more than 9 feet above the patio surface, and they should be tilted down slightly (perhaps 30 degrees) to face the audience on the patio instead of the horizon. This should help more of the noise to be retained within the property.

BLK Live refers to the stage as a temporary installation, so moving it across their patio should not be costly or difficult. Stage crews commonly move such stages within one day all the time. The speakers are currently facing South West, with the height of them at about 14 feet above the patio surface and about a 20 degrees tilt down from the horizon. This configuration is resulting in a substantial amount of noise traveling over their South wall of their facility, in the direction of many households, currently complaining of the loud noise from the facility each time a concert is held. By redirecting the speakers to face North East, which is where the airport runway and most airpark businesses instead of residences are located, in

combination with reducing the power they output, lowering their height above ground level, and tilting them down more, this would all work together toward keeping the noise within the facility and directing much of the noise that escapes away from the residents that are currently affected during the concerts today. The patio area on the North end of the stage is roughly the same size as it is on the South end of the pool, so they should not lose customers and it won't be a disadvantage to them, while it will be a distinct advantage to most home owners.

B. Abatement of low pitch noise: In order to abate the noise generated from the bass speakers, the only solution is to substantially reduce the bass sound. Their sound engineer showed us during our community meeting at their facility that they already reduced the number of bass speakers by 33% (from 6 speakers to 4 speakers). However, the bass sound is still very intrusive to households over 1 mile away even after this reduction. That is simply because removing speakers will not solve the problem unless power to the speakers is also limited. We are therefore requesting that at least 2 more of these high-power bass speakers be removed so that the overall power available to create the bass sound is further reduced.

3. In order to take into consideration the newer businesses and residences that have moved into the surrounding area since the original permit was granted to the previous tenant several years ago, ADD STIPULATION #10, as follows:

“ADJACENT BUSINESSES AND RESIDENTS. There shall be no impact to disrupt the normal operations of surrounding businesses nor the normal right of quiet enjoyment for the residents in the surrounding area. A disruption shall be defined here as any business or residence in the surrounding area that can hear the noise from BLK Live above the ambient level of noise at a distance of 100 feet from the facility, as defined in Stipulation Number 4, above.”

4. In order to ensure that the residents in the surrounding areas are not affected by the noise generated from the Live Entertainment CUP for is facility, and to ensure that residents do not have to disclose the existence of BLK Live to prospective home buyers in the future, please modify or add all of the following stipulations to their permit as follows:

A. CHANGE stipulation #2, regarding the HOURS OF LIVE ENTERTAINMENT, to End at 9:00pm nightly, which is when other live entertainment venues in the area cease to operate with their live entertainment CUP. This will ensure that residents in surrounding areas are able to sleep uninterrupted at a reasonable hour of the night.

B. At a minimum, deny the request of BLK Live to enlarge the stage from roughly 10 ft x 20 ft to 20 ft x 28 ft. At best, deny them the privilege of any outdoor stage

at all. We reasonably presume that the size of stage originally permitted was taking noise abatement into consideration. The larger and higher the stage, the bigger the band, the larger the crowds, the louder the music, and the further the noise travels. Although BLK Live claims that the size of the stage does not impact the level of noise, this is certainly not true based on objective evidence of the fact that noise complaints only started for the area around Scottsdale Quarter after the stage size was increased at BLK Live. Although there is another business in Scottsdale Quarter that also has a live entertainment CUP, there are no complaints because of their operation. BLK Live has consistently demonstrated ever since they expanded their stage that they cannot operate responsibly and respectfully and peaceably with this size of an outdoor stage and amplified speaker system, as evidenced by continued regular complaints to law enforcement and city officials by local residents of the area. These noise problems did not exist with BLK Live or with previous tenants at that same property when the smaller stage was in place. In short, residents right to quiet enjoyment is being violated every time BLK Live holds an outdoor live entertainment event, more accurately referred to as an outdoor live concert. In fact, it should not be unreasonable to suggest that they have simply lost their privilege to have any outdoor stage at all.

- C. Restrict the live entertainment at this facility to the stage located inside the building, or to the surface of the patio (not an elevated outdoor stage), and require that all doors and windows remain shut when operating with this CUP on the indoor stage.** We, the Residents, understand that this is the normal operation for all other live entertainment CUPs throughout the City of Scottsdale, including all restaurant-bars in the Downtown/Entertainment District and Scottsdale Quarter, and so requesting this same protocol in this case is not unreasonable for us to expect in this case. We believe it is reasonable to suggest that this would solve the noise problems we have been experiencing. Due to the ongoing noise issues we have experienced, we do not believe it is unreasonable to ask for this measure to be taken.

Explanation of Request for These Stipulation Changes: The current large outdoor stage has attracted big bands and large noisy crowds to the venue, which causes noise that is very intrusive to residents until late night, violating the residents right to quiet enjoyment. BLK Lives current method of operation is not comparable at all to other outdoor live entertainment venues throughout Scottsdale. Instead of operating like other small restaurant-bars that have been granted the same live entertainment permit in Scottsdale, this venue has operated in a manner comparable to a large outdoor concert venue, such as Ak Chin Pavilion in South Phoenix, as described in Attachment A. BLK Live has a large stage that is raised above ground level (unlike Ak Chin), and speaker arrays to amplify music and attract big bands and large crowds, like Ak Chin. BLK Live, however, does not have the space on their property nor the design to accommodate an outdoor live concert venue like Ak Chin Pavilion. Likewise, BLK Live only started leasing only a few years ago, which is long after

Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Friday, January 25, 2019 5:51 PM
To: Cluff, Bryan; City Council; Keagy, Raun; Keagy, Raun; Weiss, Kit; Coffee, Christopher - 717; Gollihar, George - 752; Korte, Virginia; Meyer, Gary; Phillips, Guy; Hill-Enriquez, MarJan; Lane, Jim; Littlefield, Kathy; Kuester, Kelli; Milhaven, Linda; Klapp, Suzanne; Thompson, Jim
Cc: Luke Skelton; Susan Skelton (gmail); Barb Hallin (Scottsdale neighbor); Bruce Hallin (Scottsdale neighbor); McInerney Joe; Kathi & Richard Haas; Kathi Haas; Amy Satterfield; Richard Lew; Sigona Jon; Bob Giammarco
Subject: Request for resolution of noise from BLK Live
Attachments: BLK LIVE CUP COVER LETTER.docx; BLKLive-AppealToRevokeOrSubstantiallyModify-13-CUP-2014.docx; AttachmentB--BLKLive-RequestedStipulations-13-CUP-2018.docx

Honorable Mayor Lane, City of Scottsdale Councilpersons and City of Scottsdale Officials,

I am enclosing the official request of our Stop The Noise Scottsdale Coalition (contained in 3 enclosures) regarding the live entertainment CUP currently under consideration/review by the City of Scottsdale for the applicant known as BLK Live.

In short: We, the residents of Scottsdale and Phoenix, living in close proximity to BLK Live, located at 7301 E Butherus Dr, Scottsdale, AZ 85260, call for the Scottsdale Planning Commission and Scottsdale City Council to either revoke or substantially modify the stipulations of the Live Entertainment - Conditional Use Permit (CUP) for BLK Live.

Please refer to the enclosed 3 documents for the details of our request.

Thank you very much for your attention to this most serious matter to the Scottsdale and Phoenix residents in the area.

Best Regards,
Luke Skelton on behalf of Stop The Noise Scottsdale Coalition Scottsdale resident since 2004

This email has been checked for viruses by Avast antivirus software.
<https://www.avast.com/antivirus>

For enclosures
referenced in this email,
please see referenced
attachment above.

Cluff, Bryan

From: Dina Simmons <dina.simmons365@gmail.com>
Sent: Sunday, January 20, 2019 11:00 PM
To: City Council; Cluff, Bryan
Cc: dina.simmons365@gmail.com
Subject: Noise complaint 1/19/19 re: BLK Live

Dear Scottsdale City Council members,

I'm writing in follow up to my phone call to Scottsdale Police to lodge a noise complaint this past Saturday night. I have considered the noise coming from BLK Live a nuisance many times previous, but this was the final straw. I am about a mile away, South of the airport near cross streets E Sutton Dr & N 74th St. Being inside my home and still dealing with the noise from that far away is ridiculous. During the BLK racket this weekend, a business class sized jet aircraft departed the Scottsdale airport and I heard the expected temporary normal jet engine noise. I was amazed that only at the loudest portion of the jet's noise could the BLK concert noise be drowned out. (That's pretty bad since larger planes are very loud when they use Runway 3 on the South side of the airport.) The BLK noise has been an issue for some time. It's bad now but worse when temperatures allow more use of the outside spaces of our home. I hope you can do something about this problem to resolve the noise issue and so that people in our neighborhoods on this S side of the airport don't have to put up with BLK open air noise. Thank you.

Sincerely,

Dina Simmons
269-208-2454 cell

Cluff, Bryan

From: cogsaz@gmail.com
Sent: Wednesday, January 16, 2019 11:11 AM
To: Cluff, Bryan
Subject: BLK Live CUP renewal or new application?



Good morning, It is our information that BLK Live has been in violation of non-permitted construction to their 7301 E Butherus Drive property as well as repeated noise/outdoor music complaints. When convenient, would you please verify if they are currently requesting CUP renewal or are going through a new CUP application. Is the public permitted to speak at the March 7th court hearing? Who is the appropriate recipient of the residential neighborhood's petition for relief from BLK Live ? Thxs -- sent by Sonnie Kirtley, COGS Chair (case# 3-HP-2017)



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Cluff, Bryan

From: Amy Satterfield <mamsat5@cox.net>
Sent: Tuesday, January 15, 2019 3:36 PM
To: Cluff, Bryan
Subject: Re: BLK Live Update

Bryan,

Thank you for your response to my questions. I have a few follow up questions.

You indicated that BLK Live's application will be sent to the Planning Commission once staff reviews it and provides comments and it will be scheduled 30 days out from when the application was determined. What date is the application determined? Is this 30 days from when staff responds?

Are we able to attend and speak at the evidentiary hearing on March 7th? If so, how do we know what time that will be?

What date do we need to have petition signatures and letters submitted? Are we allowed to submit them until the date of the City Council meeting? Are all petitions and letters part of the permanent record and follow the case as it moves through the process?

Thank you for your continued correspondence with me. It is very helpful.

Regards,

Amy Satterfield
602-478-1912
mamsat5@cox.net

On Jan 14, 2019, at 9:41 AM, Cluff, Bryan <BCluff@Scottsdaleaz.gov> wrote:

Hello Amy,

Please see my responses below in green.

Thank you,

Bryan D. Cluff, LEED AP
Senior Planner
City of Scottsdale
Planning & Development
Phone: 480-312-2258
Fax: 480-312-7088
bcluff@ScottsdaleAZ.gov

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From: Amy Satterfield <mamsat5@cox.net>

Sent: Tuesday, January 08, 2019 10:27 PM

To: Cluff, Bryan <BCluff@Scottsdaleaz.gov>

Cc: Luke Skelton

<lukeskelton@cox.net>; saskelton7@gmail.com; barbhallin@q.com; brucehallin@q.com; joe@joemcinerney.com

Subject: Re: BLK Live Update

Bryan,

Thank you for sending us this link and for keeping us up-to-date on the status of the BLK Live CUP application.

I understand from your email that staff still needs to review this document. Since I am unfamiliar with this process with the City of Scottsdale, can you give us an idea of the timeline and next steps for this process? Once staff reviews this, what is next? Is this case forwarded to another reviewing body for approval and when? Is this ultimately heard by the City Council? It is important for us know what to expect. Once the application is resubmitted, there is a staff review period of approximately 3 weeks. After this staff review period we will determine whether it is ready to move forward to hearing or if we having further comments that need to go back to the applicant. If it is determined to be ready for hearing, the Planning Commission meeting will be scheduled and will likely fall approximately 30 days out from when the application was determined. The City Council meeting would typically follow 30-45 days after the Planning Commission meeting. Planning Commission recommends to the City Council. City Council has the final say on approval. Please keep in mind these are estimates and may change based on the Planning Commission and City Council meeting schedules.

I saw that BLK Live has stated they will try two noise mitigation options. Wouldn't it be reasonable to request these options be in place and be proven to successfully mitigate the noise prior to any approvals? Additionally, wouldn't it be reasonable to request a third party perform a noise study and collect decibel readings from several locations including the homes of those who have repeatedly called in to complain with the City of Scottsdale. These are great questions. During the review period staff will be discussing these issues internally, to determine the best course of action moving forward.

Since BLK Live has been in violation of their CUP for several months, have they only been fined one time? How long can this continue before their CUP is temporarily revoked? Under what circumstances would their CUP be permanently revoked? If they are only being fined once without further repercussions, there is not a great incentive for them to make any changes. It seems to have taken well over six months to even get them to file with the City. The City has issued one Citation that is currently going through the litigation process in accordance with the Ordinance. An update of the status of that violation from our Code Enforcement Department is below. It is not typical for the City to issue a second citation when the owner is in the process on a current violation. In order for the CUP to be revoked, the City Council must start the revocation process.

“The Arraignment for BLK Live for a violation of the conditions of the existing CUP was held on January 4th in Scottsdale City Court. The defendant pled Not Responsible and an Evidentiary Hearing date was set by the Court for March 7th.

****Please note that this is a violation of the conditions of an existing CUP, therefore the only way for live entertainment to no longer be permitted is through the revocation of the CUP, not the issuance of additional citations****

I understand that SPD continues to respond to calls for service for excessive noise and while music can be heard, it does not rise to the level of unreasonableness to warrant a Citation.”

Thank you and I look forward to hearing from you.

Regards,

Amy Satterfield
602-478-1912
mamsat5@cox.net

On Jan 8, 2019, at 2:48 PM, Cluff, Bryan <BCluff@Scottsdaleaz.gov> wrote:

Hello,

BLK Live application update:

BLK Live made a resubmittal of the conditional use permit applications last Friday. Their updated project narrative and plans can be found at the link below. The project narrative and plans discuss sound mitigation measures, including the provision of a sound wall. Staff will be reviewing the revised documents over the next couple of weeks. I will send out another update on status once the staff review cycle is complete.

<https://eservices.scottsdaleaz.gov/bldgresources/Cases/Details/48841>

Thank you,

Bryan D. Cluff, LEED AP
Senior Planner
City of Scottsdale
Planning & Development
Phone: 480-312-2258
Fax: 480-312-7088
bcluff@ScottsdaleAZ.gov

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From: mail list <mail_list@cox.net>
Sent: Friday, December 14, 2018 10:49 PM
To: Kuester, Kelli <KKuester@Scottsdaleaz.gov>
Cc: City Council <CityCouncil@scottsdaleaz.gov>; Thompson, Jim <JThompson@Scottsdaleaz.gov>; Rodbell, Alan - 855 <arodbell@Scottsdaleaz.Gov>; Cluff, Bryan <BCluff@Scottsdaleaz.gov>; Rocco@blkliveaz.com; StopTheNoise <blklivestopthenoise@gmail.com>; FoxPhoenixViewerNews@foxtv.com; gharper@azfamily.com; Keagy, Raun <rkea@scottsdaleaz.gov>; Miller, John - 579 <Johmiller@scottsdaleaz.gov>
Subject: Re: Must it be so loud?

Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Thursday, January 10, 2019 1:15 PM
To: Cluff, Bryan
Cc: Richard Lew; Luke Skelton
Subject: Re: BLK Live Resubmittal

Hello Bryan (cc Rick),

Happy new year to you as well! I hope your holidays were peaceful, blessed, and healthy.

Thank you so much for reaching out to let us know that BLK Live has resubmitted their application.

Yes, we as a community of local neighbors/residents certainly want to address some concerns about the application and make some requests. I did send a lengthy email with requests to you earlier, which you said would take you some time to review. I did not hear back, so don't know where that stands.

We, as a community of neighbors, met this morning again to discuss this matter. I called and left you a message during that meeting. One of the things we need to know from you is the specific timing on this process. I know you outlined it to us when Rick and I met with you before, and I know you said below that you need our input "to review within the next couple weeks". But, I have the impression that there are also specific dates or deadlines between steps, and I recall there are specific durations allowed. Since we were further into the process when we talked to you at your office during the first round of applications, we missed the opportunity that we are now afforded in this round. We don't want to miss it this time around. The other thing we need to confirm is whether this matter goes first to your Planning Commission and second to the City Council. I understood from you that this is the process, but want to be certain I am correct.

Thank you so much,

Luke

On 1/8/2019 8:58 AM, Cluff, Bryan wrote:

Hello Luke,

Happy New Year. I hope your Holidays were pleasant.

Just wanted to give you a quick update. BLK made a resubmittal of the use permit applications last Friday. Their updated project narrative and plans can be found at the link below. They are proposing some additional sound mitigation measures, including a sound wall. If you are still working on items that you may want included in the staff stipulations I will need that information to review within the next couple of weeks.

<https://eservices.scottsdaleaz.gov/bldgresources/Cases/Details/48841>

Thank you,

Bryan D. Cluff, LEED AP

Cluff, Bryan

From: Carol <cb723@aol.com>
Sent: Wednesday, January 09, 2019 9:54 AM
To: Cluff, Bryan
Subject: Re: BLK Live Update

How can anyone believe a word they say?? They keep saying they will keep the music down and yet they continue to crank it up causing neighbors to call non emergency police.... try sleeping with a heavy metal band pounding for hours!!

Carol Bruckner

Carol's iPhone

On Jan 8, 2019, at 2:48 PM, Cluff, Bryan <BCluff@scottsdaleaz.gov> wrote:

Hello,

BLK Live application update:

BLK Live made a resubmittal of the conditional use permit applications last Friday. Their updated project narrative and plans can be found at the link below. The project narrative and plans discuss sound mitigation measures, including the provision of a sound wall. Staff will be reviewing the revised documents over the next couple of weeks. I will send out another update on status once the staff review cycle is complete.

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Thank you,

Bryan D. Cluff, LEED AP
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From: mail list <mail_list@cox.net>
Sent: Friday, December 14, 2018 10:49 PM
To: Kuester, Kelli <KKuester@Scottsdaleaz.gov>
Cc: City Council <CityCouncil@scottsdaleaz.gov>; Thompson, Jim <JThompson@Scottsdaleaz.gov>; Rodbell, Alan - 855 <arodbell@Scottsdaleaz.gov>; Cluff, Bryan <BCluff@Scottsdaleaz.gov>; Rocco@blkliveaz.com; StopTheNoise <blklivestopthenoise@gmail.com>; FoxPhoenixViewerNews@foxtv.com; gharper@azfamily.com; Keagy, Raun <rkea@scottsdaleaz.gov>;

Cluff, Bryan

From: Amy Satterfield <mamsat5@cox.net>
Sent: Tuesday, January 08, 2019 10:27 PM
To: Cluff, Bryan
Cc: Luke Skelton; saskelton7@gmail.com; barbhallin@q.com; brucehallin@q.com; joe@joemcinerney.com
Subject: Re: BLK Live Update

Bryan,

Thank you for sending us this link and for keeping us up-to-date on the status of the BLK Live CUP application.

I understand from your email that staff still needs to review this document. Since I am unfamiliar with this process with the City of Scottsdale, can you give us an idea of the timeline and next steps for this process? Once staff reviews this, what is next? Is this case forwarded to another reviewing body for approval and when? Is this ultimately heard by the City Council? It is important for us know what to expect.

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Since BLK Live has been in violation of their CUP for several months, have they only been fined one time? How long can this continue before their CUP is temporarily revoked? Under what circumstances would their CUP be permanently revoked? If they are only being fined once without further repercussions, there is not a great incentive for them to make any changes. It seems to have taken well over six months to even get them to file with the City.

Thank you and I look forward to hearing from you.

Regards,

Amy Satterfield
602-478-1912
mamsat5@cox.net

On Jan 8, 2019, at 2:48 PM, Cluff, Bryan <BCluff@Scottsdaleaz.gov> wrote:

Hello,

BLK Live application update:

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<https://eservices.scottsdaleaz.gov/bldgresources/Cases/Details/48841>

Thank you,

Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Friday, December 21, 2018 10:42 PM
To: Kuester, Kelli; City Council; Thompson, Jim; Keagy, Raun; Cluff, Bryan
Cc: Susan Skelton (gmail)
Subject: Re: BLK Live noise at an all time high

Hello Kelli, Raun, Bryan, Jim, and Scottsdale City Council members,

Tonight is yet another crazy night for loud noise from BLK Live, and another wasted night for myself. I called to report the noise to the police yet again about 45 minutes ago, and there is no change as of yet (10:30pm). Why are they allowed to do this time and time again without any recourse? As you stated below, I live well over a mile away from BLK Live, and it is very loud and obnoxious at my home yet again. All I hear in my home office with the doors and windows shut is the loud noise coming from BLK Live.

How loud? Well, I have a neighbor directly across the street from me that decorated nicely for Christmas, and they have Christmas music playing every night to go with the decorations. I was standing by my mailbox about an hour ago, which is not more than 40 ft from this same neighbors front door, to say goodbye to some friends. I could hear the music from BLK Live much more clearly and louder than the music from across the street. How can that be considered reasonable? This is just absolutely ridiculous.

Yet again, I am asking that something please be done to correct this problem once and for all.

You mentioned that they are in violation of their Conditional Use Permit for not following their site plan since their stage is too big. Well, they are also in violation of Stipulation #4 of their CUP.

Stipulation #4 of their CUP states that the noise from BLK Live can not be any louder than the ambient noise of the area, nor can it be of a different character than ambient noise. I guarantee that they are violating this stipulation as the noise from their facility is so loud that, as mentioned, I can plainly hear it inside my home from well over a mile away. The area is generally considered 100 feet from the facility, and since that is all I can hear from over 1 mile away inside my home, I am also quite certain that the noise they are generating is much much louder than ambient noise of the area around the facility, which is primarily distant traffic noise that you can't even hear. This problem of noise needs to be targeted for correction, just as the size of their stage needs to be corrected. The opening statement for these stipulations clearly state that they are written with the intention to protect the community. In order to protect the community, as intended, this stipulation needs to, therefore, be enforced. If it is unenforceable as stated, then it needs to be clarified so that it can be measured and thereby enforceable.

Thank you very much,
Luke Skelton
7440 E Camino Santo
Scottsdale, AZ 85260

On 12/3/2018 11:44 AM, Kuester, Kelli wrote:

Dear Mr. Skelton,

My apologies for my delayed response and please allow me to share with you the following information:

As you may know, the city is following up on BLK Live. A citation has been issued to BLK Live, and their preliminary arraignment was held recently. At that hearing, attorneys for BLK requested a continuance and the Court granted it. The citation is for non-conformance with the site plan existing conditional use permit for Live Entertainment on their property - specifically, the stage has been enlarged from what was previously approved. In addition, BLK is currently not providing enough parking to meet ordinance requirements. To date, no technical violations of noise regulations have been documented by the Police or Code Enforcement staff, although sound is certainly audible up to mile away in your neighborhood.

BLK has applied for an amendment to their conditional use permit to expand the stage area. That request should be scheduled for an action by City Council sometime after the first of the year. This would not affect the ability of the applicant to provide live entertainment on the property, but applies only to the site plan and the size of the stage area.

You may access the City Council agenda calendar at the following link: <https://www.scottsdaleaz.gov/council/meeting-information/agendas-minutes>

I hope this information is helpful, please let me know if you have any questions.

Best,

Kelli Kuester

Management Assistant to the Mayor
3939 N. Drinkwater Blvd., Scottsdale, AZ 85251
kkuester@scottsdaleaz.gov
(480) 312-7977

From: Luke Skelton <lukeskelton@cox.net>
Sent: Sunday, November 18, 2018 12:03 PM
To: Keagy, Raun <rkea@scottsdaleaz.gov>; Cluff, Bryan <BCluff@Scottsdaleaz.gov>; City Council <CityCouncil@scottsdaleaz.gov>
Cc: Luke Skelton <lukeskelton@cox.net>; Susan Skelton (gmail) <saskelton7@gmail.com>
Subject: Re: BLK Live noise at an all time high

Hello again, Scottsdale Planning Commission and City Council Members.

Two other important points to mention...

1) The noise last night is actually responsible for waking my wife up from a sound sleep at about 10:00 pm. She was not able to go back to sleep until about 3:30 am. It is very frustrating to me that a Scottsdale business is allowed to operate in such a manner as to awaken my wife in the middle of the night. As mentioned in my full message to you below, we live over a mile away from BLK Live.

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no improvements. It is high time that something drastic has got to happen to correct this problem. Please act!

Please see my full message and specific appeal to you below.

Best Regards,
Luke Skelton

On 11/18/2018 4:55 AM, Luke Skelton wrote:

Date: November 17, 2018

Hello Scottsdale Planning Commission and City Council Members.

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In addition to the 68 residents of the area in attendance, it is important to mention that there were also 6 representatives of BLK Live who came to our meeting, one of which is the manager of the facility. Given this, it is clear that they fully understand the unquestionable concerns and complaints of the citizens in the area about the intrusive noise problems caused by their facility night after night. To me it is as if they have sent a clear message to us all tonight, just 48 hours after our meeting, which is that they are simply not concerned with us.

BLK Live is a recent tenant, that has only been operating at this facility for a couple years. They have apparently operated much differently than previous tenants, or any other businesses in the area that also currently operate with a

live entertainment CUP. We have been residents for over 13 years, and have never heard any such live entertainment at our homes, so we have never had to call the police or write you, our City Council members, to complain of such problems before now. This is actually the first time in my life.

Several of us residents in the area did meet with BLK Live management and owners back in the Spring of this year, along with city officials and police, to dialogue and share with them about how the noise has been negatively impacting our lives, and to ask for their cooperation as good neighbors to turn down the music and modify their operation as necessary. Unfortunately, they have taken no noticeable measures to correct the problem since that time. They told us at the meeting that they are not in violation of the City ordinance. However, I am afraid that, based on my understanding, they are mistaken.

In addition to the recent violation of this CUP (12-UP-2013), for which they were cited and remain out of compliance today, they are also in violation of the City Ordinances as well as at least one Stipulation of their specific CUP, possibly more. I shared some of this with Bryan Cluff, who is in the process of reviewing my input.

One example of this is:

Stipulation #4 of this particular CUP, which states that "*NOISE. In addition to the City's Noise Ordinance (Ordinance No. 3192, Article II, Chapter 19 of the Scottsdale Reviews Code), noise generated from this use, including any speakers or other amplification equipment, shall not exceed ambient noise levels consistent to the use and character of the area during hours of operation, as determined by the Zoning Administrator, or designee.*" As stated, it is clear that this stipulation is designed to limit this permit beyond the City's Noise Ordinance by ensuring that the noise generated from this use "*shall not exceed ambient noise levels consistent to the use and character of the area during hours of operation.*"

In reality, the level of noise generated from this use dramatically exceeds the ambient noise levels of the area during the hours of operation (roughly 9:00pm–11:00pm). Also, the noise generated by this venue is not consistent in the least to the use and character of the area. The ambient noise in the area is primarily composed of background road noise, which is entirely different from and inconsistent with the live outdoor rock concerts hosted at this venue.

As mentioned, there are several other ways that BLK Live is also in violation of the City Ordinances. I can share these as desired.

The noise was so loud and so intrusive tonight that I could not concentrate while working here in my home office. Unfortunately, this is not an exception, but rather a rule every night that they hold one of their live outdoor rock concerts. We can't even open up our doors and windows to enjoy the outdoors at our own home when they are operating. Also, we can't sleep on these nights. And again,

we are located over 1 mile away from the facility. This is just crazy, and it makes absolutely no sense at all.

I believe it is reasonable to state that it is simply incompatible to operate such an outside live concert venue near established residential communities, as is the case here.

Since BLK Live continues to operate in a state of non-compliance with the site plan for their live entertainment CUP, and since they have demonstrated no consideration for the concerns of us as residents, I request that the Scottsdale City Planning Commission and Scottsdale City Council take serious measures to correct this habitual problem once and for all, including, as afforded by your ADMINISTRATIVE PROCESS defined in the Stipulations for this permit, revocation of their live entertainment CUP.

Thank you for your attention to this matter,
Luke Skelton



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Thank you and God bless, Luke Skelton Good News TV/GNTV Latino MyGoodNewsTV.com

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Thank you and God bless, Luke Skelton Good News TV/GNTV Latino MyGoodNewsTV.com

Cluff, Bryan

From: Tracy <tracyammo@aol.com>
Sent: Sunday, December 16, 2018 10:06 PM
To: Cluff, Bryan
Subject: BLK Live disturbance

Good evening,

Please let me know if anything can be done concerning the noise emanating from the tavern in our neighborhood called BLK Live.

It is now 9:50 P.M. SUNDAY night, they've been playing music for hours, even with all of our doors and windows closed it's hard to hear the television..

How can this possibly be OK, let alone legal..?

Is the city prioritizing business taxes over citizens wellbeing and comfort in our own homes.?

I simply don't understand why the profits of this business are allowed to come before the Scottsdale citizens rights to peacefully live our lives, in our homes...

Please enlighten me...

Respectfully,
Scottsdale citizens,
Mr. & Mrs. Garwood
13401 N. 76th Place
Scottsdale.

Sent from my iPhone

Cluff, Bryan

From: mail list <mail_list@cox.net>
Sent: Friday, December 14, 2018 10:49 PM
To: Kuester, Kelli
Cc: City Council; Thompson, Jim; Rodbell, Alan - 855; Cluff, Bryan; Rocco@blkliveaz.com; StopTheNoise; FoxPhoenixViewerNews@foxtv.com; gharper@azfamily.com; Keagy, Raun; Miller, John - 579
Subject: Re: Must it be so loud?

Once again BLK Live terrorizing the neighborhood tonight. What's the city council doing? Nothing. You should be ashamed of yourselves.

On Dec 3, 2018, at 11:38 AM, Kuester, Kelli <KKuester@Scottsdaleaz.gov> wrote:

Good morning,

My apologies for my delayed response and please allow me to share with you the following information:

Thank you for your email. As you may know, the city is following up on BLK Live. A citation has been issued to BLK Live, and their preliminary arraignment was held recently. At that hearing, attorneys for BLK requested a continuance and the Court granted it. The citation is for non-conformance with the site plan existing conditional use permit for Live Entertainment on their property - specifically, the stage has been enlarged from what was previously approved. In addition, BLK is currently not providing enough parking to meet ordinance requirements. To date, no technical violations of noise regulations have been documented by the Police or Code Enforcement staff, although sound is certainly audible up to mile away in your neighborhood.

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Best,

Kelli Kuester
Management Assistant to the Mayor
3939 N. Drinkwater Blvd., Scottsdale, AZ 85251
kkuester@scottsdaleaz.gov
(480) 312-7977

From: mail list <mail_list@cox.net>
Sent: Saturday, November 17, 2018 7:53 PM
To: Kuester, Kelli <KKuester@Scottsdaleaz.gov>
Cc: City Council <CityCouncil@scottsdaleaz.gov>; Thompson, Jim <JThompson@Scottsdaleaz.gov>; Rodbell, Alan - 855 <arodbell@Scottsdaleaz.Gov>; Cluff, Bryan <BCluff@Scottsdaleaz.gov>; Rocco@blkliveaz.com; StopTheNoise <blklivestopthenoise@gmail.com>;

Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Sunday, November 18, 2018 12:03 PM
To: Keagy, Raun; Cluff, Bryan; City Council
Cc: Luke Skelton; Susan Skelton (gmail)
Subject: Re: BLK Live noise at an all time high

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Luke Skelton



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Thank you and God bless, Luke Skelton Good News TV/GNTV Latino MyGoodNewsTV.com

Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Sunday, November 18, 2018 4:55 AM
To: Keagy, Raun; Cluff, Bryan; City Council
Cc: Luke Skelton; Luke Skelton
Subject: BLK Live noise at an all time high

Date: November 17, 2018

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Thank you for your attention to this matter,
Luke Skelton



Cluff, Bryan

From: Barbara Hallin <barbhallin@q.com>
Sent: Saturday, November 17, 2018 10:43 PM
To: Cluff, Bryan; Korte, Virginia; City Council; Rodbell, Alan - 855; Keagy, Raun; Coffee, Christopher - 717; solange@MLWSW.com
Cc: Rocco@blkliveaz.com; BLK Live; jared@blkliveaz.com
Subject: REVOKE BLK Live's conditional use permit!!

Attention City of Scottsdale Planning, Scottsdale Police Department and Scottsdale City Council Members:

WOW!

A mere 48 hours after a well attended neighborhood meeting to discuss the continuing problem of BLK Live's excessively loud music, BLK Live has the nerve to have it cranked up extremely loud again tonight. Totally out of control tonight!!!! Multiple members of BLK Live's management as well as their attorneys were present at that meeting Thursday evening.

BLK Live continues to repeatedly prove they have absolutely NO consideration for their neighbors. Their conditional use permit needs to be REVOKED immediately. They are already in violation of their permit anyways. The City of Scottsdale is failing to protect the concerned citizens of the neighborhoods suffering from this disturbing business establishment. They are undeserving of holding such a permit as they do not know and do not care about using it responsibly.

When will Scottsdale protect the peaceful enjoyment of our homes? As residents here since 1977, we would like to know what the City intends to do about this? Time is of the essence.

Thank you,

Bruce & Barbara Hallin
Concerned Citizens and Registered Voters

Cluff, Bryan

From: Richard & Kathi <haasienda@cox.net>
Sent: Saturday, November 17, 2018 8:27 PM
To: Cluff, Bryan
Subject: BLK Live Excessively loud AGAIN tonight.

We live at 6907 E Evans Dr., more than a mile away, and are being disturbed by the loud noise. We can hear the drums beating, vocalists screaming, bass thumping, etc.

Please add my complaint to the record.

Thank you.

Kathi Haas

From: Cluff, Bryan [mailto:BCluff@Scottsdaleaz.gov]
Sent: Monday, August 13, 2018 1:47 PM
To: barbhallin@q.com; brucehallin@q.com; Rickmail48@yahoo.com; cindybethcohen@hotmail.com; sigona@hotmail.com; erinlane@cox.net; lexkimberes@gmail.com; haasienda@cox.net; lukeskelton@cox.net; susanskelton@cox.net; millerpt@cox.net; vmnaz@cox.net; mamsat5@cox.net; Hawkinson, Sherri - B1251; steve@vaspower.com; kmaahs9@gmail.com; ackie2@gmail.com; katatjo@yahoo.com; flzatz@gmail.com; joseka@q.com; CB723@aol.com; cmnoyes@gustlaw.com; jhillier4561@gmail.com; joe@joemcinerney.com; lori.foss@gmail.com
Cc: Weiss, Kit
Subject: BLK Live Conditional Use Permits

Hello All,

You are receiving this email because of your expressed interest in BLK Live as it relates to their live entertainment application. We have received the formal Conditional Use Permit application from BLK Live which is requesting an amendment to their Live Entertainment Use Permit and Bar Use Permit. The associated case numbers are 12-UP-2018 and 13-UP-2018. The Live Entertainment amendments are related to the stage design, size and location. The amendments to the Bar include the recently constructed patio on the west side of the building (not related to Live Entertainment). The application is in review by City of Scottsdale staff and we will be issuing comments back to the applicant later this month.

The links below will take you to our case fact sheets for the cases where you can find information related to the submittal and future hearing dates (nothing scheduled yet).

<https://eservices.scottsdaleaz.gov/bldgresources/Cases/Details/48838>

<https://eservices.scottsdaleaz.gov/bldgresources/Cases/Details/48841>

Please feel free to email me with any comments or concerns you may have regarding the proposal.

Thank you,

Bryan D. Cluff, LEED AP
Senior Planner
City of Scottsdale
Planning & Development

Cluff, Bryan

From: mail list <mail_list@cox.net>
Sent: Saturday, November 17, 2018 7:53 PM
To: Kuester, Kelli
Cc: City Council; Thompson, Jim; Rodbell, Alan - 855; Cluff, Bryan; Rocco@blkliveaz.com; StopTheNoise; FoxPhoenixViewerNews@foxtv.com; gharper@azfamily.com; Keagy, Raun; Miller, John - 579
Subject: Re: Must it be so loud?

All,

Once again, another beautiful evening ruined by BLK live. It's so loud tonight that it's a nuisance even with my windows closed. It's beyond frustrating and frankly, while there have been responses to this thread by the council, action seems nonexistent.

Are you able to at least provide an update as to the status of the citation referenced below? Are they allowed to just wantonly ignore the expired CUP endlessly?

On Nov 1, 2018, at 10:10 AM, Kuester, Kelli <KKuester@Scottsdaleaz.gov> wrote:

Good morning,

On October 25th, Civil Citation No. 06-0787 was issued (US Mail and Certified Mail) to BLK Live LLC, the party responsible for the violation. The Arraignment is scheduled for November 20th @ 9:00 am in Scottsdale City Court and here are the scenarios:

- If they plead Responsible and pay the fine, then this case is particular citation is closed. If they pay the fine and the property remains in violation, we would take additional enforcement action.
- If they plead Not Responsible, then an Evidentiary Hearing date is set by the Court—typically 4-6 weeks out.

Please note that this is a violation of the conditions of an existing CUP, therefore the only way for live entertainment to no longer be permitted is through the revocation of the CUP, not the issuance of additional citations.

Best,

Kelli Kuester
Management Assistant to the Mayor
3939 N. Drinkwater Blvd., Scottsdale, AZ 85251
kkuester@scottsdaleaz.gov
(480) 312-7977

From: mail list <mail_list@cox.net>
Sent: Wednesday, October 31, 2018 9:24 PM

Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Friday, November 02, 2018 1:22 AM
To: Cluff, Bryan
Cc: Luke Skelton; Barb Hallin (Scottsdale neighbor); Bruce Hallin (Scottsdale neighbor); Susan Skelton (gmail); Richard Lew; Amy Satterfield
Subject: petition requirements

Hi Bryan,

Can you please share with me any requirements that the City of Scottsdale has for a petition? We want to make sure we do this right. I need this information today (Friday) if at all possible.

Thank you very much,
Luke Skelton

This email has been checked for viruses by Avast antivirus software.
<https://www.avast.com/antivirus>

Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Thursday, November 01, 2018 3:15 PM
To: Cluff, Bryan
Cc: Luke Skelton; Richard Lew; Barb Hallin (Scottsdale neighbor); Amy Satterfield
Subject: PDFs of CUP and stipulations

Hi Bryan,

I looked but can not find a soft copy (PDF) of 3 things. I realized I think I only got a paper copy of these from you when we met. Therefore, I would like to request PDFs of the following please...

- 1) their current CUP for live entertainment.
- 2) the proposed CUP for the same.
- 3) the stipulations for this CUP.

Thank you very much.
Luke



Virus-free. www.avast.com

Cluff, Bryan

From: Carol <cb723@aol.com>
Sent: Thursday, November 01, 2018 6:20 AM
To: Cluff, Bryan

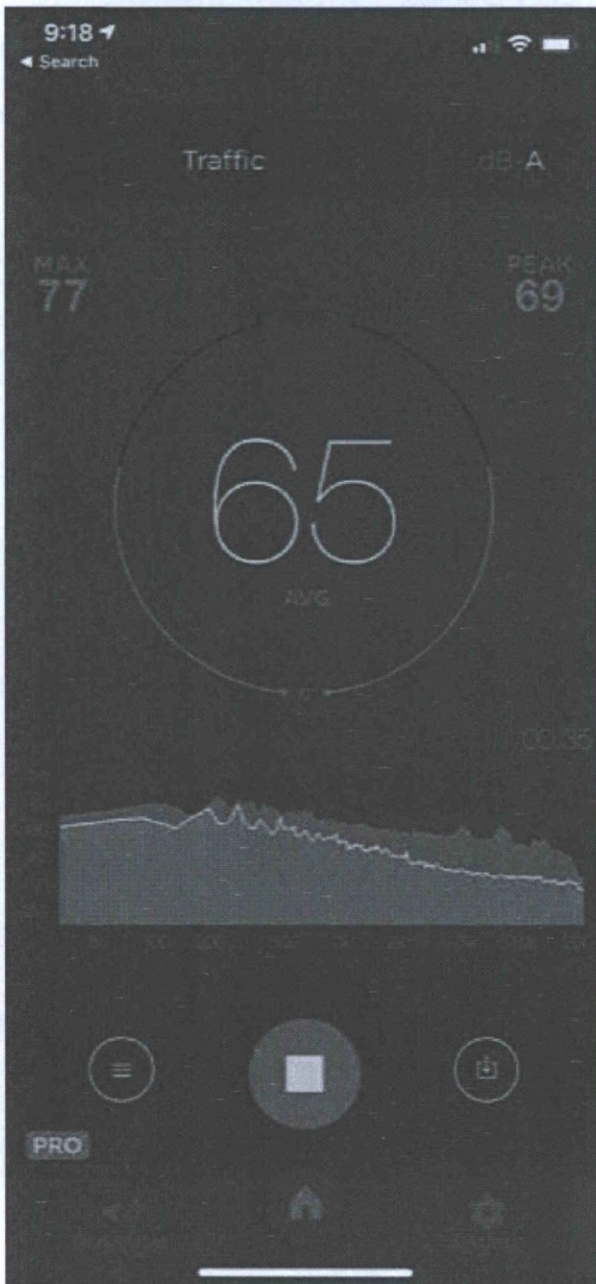
Oct 31 BLK Live is once again out of control ... blasting their music on a school night... this insanity has got to STOP!!!!
No one can sleep.
Carol Bruckner

Carol's iPhone

Cluff, Bryan

From: mail list <mail_list@cox.net>
Sent: Wednesday, October 31, 2018 9:24 PM
To: Kuester, Kelli
Cc: City Council; Thompson, Jim; Rodbell, Alan - 855; Cluff, Bryan; Rocco@blkliveaz.com; FoxPhoenixViewerNews@foxtv.com; gharper@azfamily.com
Subject: Re: Must it be so loud?

For the record, 65 dBs a block away from the venue.



Here we go again! BLK BLARING LOUD TONIGHT!!! It's insane. Another beautiful evening ruined.

Cluff, Bryan

From: mail list <mail_list@cox.net>
Sent: Wednesday, October 31, 2018 9:12 PM
To: Kuester, Kelli
Cc: City Council; Thompson, Jim; Rodbell, Alan - 855; Cluff, Bryan; Rocco@blkliveaz.com; FoxPhoenixViewerNews@foxtv.com; gharper@azfamily.com
Subject: Re: Must it be so loud?

Here we go again! BLK BLARING LOUD TONIGHT!!! It's insane. Another beautiful evening ruined.

I was led to believe their CUP was expired. Will they be fined for this? When is the city going to step up and REPRESENT it's citizens???

Adding the media as it's quite clear the Scottsdale City Council has no interest in serving its constituents. And in an election year, to boot.

On Oct 22, 2018, at 11:11 AM, Kuester, Kelli <KKuester@Scottsdaleaz.gov> wrote:

Good morning,

Mayor Lane and the City Councilmembers have asked that I acknowledge receipt of your email and respond to provide an update. A Final Compliance Notice was issued to both BLK Live and the property owner on October 11, 2018 which stated that they have 10 days to comply by resubmitting the required information for the CUP Amendment. That Notice expired yesterday, October 21. Therefore, if the resubmittal is not received by today, a Civil Citation will be issued to BLK Live for non-compliance.

Please let me know if you have any questions.

Best,

Kelli Kuester
Management Assistant to the Mayor
3939 N. Drinkwater Blvd., Scottsdale, AZ 85251
kkuester@scottsdaleaz.gov
(480) 312-7977

From: mail list <mail_list@cox.net>
Sent: Friday, October 19, 2018 8:28 PM
To: Kuester, Kelli <KKuester@Scottsdaleaz.gov>
Cc: City Council <CityCouncil@scottsdaleaz.gov>; Thompson, Jim <JThompson@Scottsdaleaz.gov>; Rodbell, Alan - 855 <arodbell@Scottsdaleaz.Gov>; Cluff, Bryan <BCluff@Scottsdaleaz.gov>; Rocco@blkliveaz.com
Subject: Re: Must it be so loud?

Another beautiful evening.... will my windows be open? Nope. Because there's an outdoor concert venue down the block blaring away.

Cluff, Bryan

From: Amy Satterfield <mamsat5@cox.net>
Sent: Monday, October 29, 2018 5:18 PM
To: Cluff, Bryan
Subject: BLK Live - Saturday night

Bryan,

I'm writing to you once again with a complaint about the noise level being generated by BLK Live.

Saturday, Oct. 27, I was again able to hear the band inside my home with the doors and windows closed. This time, the music was going until **1:15-1:30 AM**. I called the Scottsdale Police non-emergency number and she said an officer would drive by my home to see if they could take a reading from the front yard. I told her the same thing I say every time and that is they will not be able to take a reading from the front because our home blocks the sound in the front yard. We are hearing it in the backyard and from the windows on the back side of the house. (Please keep in mind that our bedroom and family room are on the back side and we have double paned windows.)

When we met with you and representatives from BLK Live several months ago, they told us they cut the band off at 11 pm and have music playing inside rather than outside. This was obviously not the case that evening. They also told us they would be building a sound barrier on the south side of the property to mitigate sound coming in our direction. It doesn't appear they are keeping their word.

I understand they have now been issued a civil citation for non-compliance. Is this something that will be assessed each day they are in non-compliance or is this just a one time fine? What is the next step if they do not resubmit the required information for the CUP? With the amount of money they are making, I don't know if a fine is going to be enough to make them come to the table.

Regards,

Amy Satterfield
6932 E Hearn Rd.
Scottsdale, AZ 85254
602-478-1912
mamsat5@cox.net

Cluff, Bryan

From: Carol B <cb723@aol.com>
Sent: Sunday, October 28, 2018 9:46 AM
To: Cluff, Bryan
Subject: BLK Live

Dear Bryan,

Last night(Oct 27) once again BLK Live was unbelievably LOUD(until 1:15 am)...what has happened to our peaceful neighborhood??? Perhaps you can give me YOUR cell phone number so I can call you late at night every time BLK Live wakes us up!!! We continue to call non-emergency police....after the police go there BLK turns the music down 15-20 min..then cranks it up again. Why aren't they being FINED???? This situation is becoming less and less tolerable.

I would like ANSWERS!!!! It's the most beautiful time of the year and we can't even open up our windows(it feels like the band is performing inside our bedroom)..please do NOT let them expand....they are already out of control.

Carol Bruckner(31 yr resident)
7404 E. Camino Santo
Scottsdale, AZ 85260

Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Friday, October 26, 2018 4:13 PM
To: Cluff, Bryan
Cc: Luke Skelton; Barb Hallin (Scottsdale neighbor); Bruce Hallin (Scottsdale neighbor); Susan Skelton (gmail); Richard Lew; Amy Satterfield
Subject: Re: Follow up questions for BLK Live stipulations

Hi Brian,

I prepared a response to you, but my computer crashed and I lost it. I will share the same over again as I can recall. My responses are shown in **blue**, below, and I organized the conversation so it is a bit easier to follow.

Best regards,

Luke

On 10/2/2018 3:41 PM, Cluff, Bryan wrote:

Luke,



Please see my responses to your questions below in green. Let me know if there is anything else I can help with.

Thank you,

Bryan D. Cluff, LEED AP
Senior Planner
City of Scottsdale
Planning & Development
Phone: 480-312-2258
Fax: 480-312-7088
bcluff@ScottsdaleAZ.gov

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 follow us on Facebook


From: Luke Skelton <lukeskelton@cox.net>
Sent: Monday, October 01, 2018 9:56 PM
To: Cluff, Bryan <BCluff@Scottsdaleaz.gov>
Cc: Barb Hallin (Scottsdale neighbor) <barbhallin@q.com>; Richard Lew <rickmail48@yahoo.com>; Luke Skelton <lukeskelton@cox.net>; Susan Skelton (gmail) <saskelton7@gmail.com>; Bruce Hallin (Scottsdale neighbor) <brucehallin@q.com>; Luke Skelton <lukeskelton@cox.net>
Subject: Re: Follow up questions for BLK Live stipulations

Hi Bryan,

We are preparing to send you the requested stipulations for the Live Entertainment CUP for BLK Live.

Since you said that email is the best way to contact you, I am sending this email message with a couple questions to make sure we have everything right before sending it...

1) As we understand it, BLK Live is the only venue or restaurant/bar in Scottsdale with an outside live entertainment CUP of its kind? Is that correct?

BRYAN: No. There are others with outdoor live entertainment, including Scottsdale Quarter.

LUKE: Please share the name and address of the other businesses with outdoor live entertainment permits. We don't hear any of them, so we have naturally never complained about them. Didn't you say that BLK Live is the only business you are getting noise complaints from? Are there differences in their CUP stipulations, etc?

2) Is there a standard for "ambient noise level" that can be applied to stipulation #4 in this CUP, or would we need to measure this ourselves?

BRYAN: The link below will take you to the noise ordinance section of the City Code. There is a definition for "Ambient noise". This is the standard which is used.

https://library.municode.com/az/scottsdale/codes/code_of_ordinances?nodeId=REVISED_COD_EVO1_CH19OFIS_ARTIISPNOVI

LUKE: OK. Yes, the definition for Ambient Noise is listed in Section 9-25 of the ordinance. It is defined here as a measured value in the physical location of the CUP, usually 100 ft from the source.

3) Are we correct in understanding that the maximum "noise level standard" for a CUP in the City of Scottsdale in a non-residential area is set at 50 dB(A) for 11pm – 7am, and 55 dBA for 7am-11pm? This is what we found in your zoning ordinance documents for obtaining a CUP... I think at a park. Can't find it now. My computer crashed, so lost the reference. If not correct, please let me know what is the proper max noise level standard and please tell me where to find it.

BRYAN: The level is 68 dB(A) per the noise ordinance at the link above.

LUKE: The 68 dB(A) level defined in this ordinance is not referring to the "Exterior Noise Level Standard" I mentioned. The Exterior Noise Level Standard, as defined by the City of Scottsdale in Section 5.2808, is 50 dB(A) for 11pm – 7am, and 55 dBA for 7am-11pm for non-residential areas. Further, this same standard is defined as 45dB(A) for 11pm - 7am in residential areas.

The level of 68dB(A), on the other hand, is defined in Section 9-25 of the Scottsdale Ordinance as "unreasonable" and in Section 9-26 as "unlawful".

Since Ambient Noise and Unreasonable Noise are 2 entirely different values in the Noise Ordinance, I am

trying to establish a standard of measurement that could be used for stipulation #4 of their specific live entertainment CUP. In the absence of a proper standard, the Ambient Noise must be measured near the venue in question during the time of night when this CUP is normally used by the tenant, but in the absence of the noise from this CUP.

4) Would this be a reasonable level to request as clarification for the "ambient noise level" specified in the stipulation #4 of their CUP?

BRYAN: The level is 68 dB(A) per the noise ordinance at the link above.

LUKE: I must humbly disagree with your response here. You are comparing 68dB(A) noise level to Ambient Noise level of the area, which, as I understand it, are two entirely different values. Given this, I feel it is necessary to carefully review what the definitions for *Ambient Noise* and *Unreasonable Noise* are, as defined in Code #3912, Section 9-25 and onward. Please let me know if I understand correctly...

The definition for Ambient Noise in this code (#3912), found in Section 9-25(A)(2), says that it is: "*the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far. For the purpose of this article, ambient noise level is the level obtained when the noise level is averaged over a period of fifteen (15) minutes without inclusion of noise from isolated identifiable sources, at the location and time of day near that at which a comparison is to be made.*" It is clear in this definition that Ambient Noise level must be measured at a location and time of day (night in this case) when the venue is normally utilizing their live entertainment CUP. Likewise, according to their current CUP Stipulation #4, this stipulation states the same thing... that ambient level must be measured during hours when the live entertainment CUP would normally be operating, and it must be measured exclusive of (in the absence of) any noise from the venue in question. Ambient Noise level, as defined by Wikipedia, "*is the background sound pressure level at a given location, normally specified as a reference level to study a new intrusive sound source.*" This is an equivalent definition being used by Scottsdale in this ordinance. Ambient Noise is the baseline level of noise in the area, which is used to compare or contrast with any additional noise being generated, which in this case would be noise coming from the venue in question.

The definition of Unreasonable Noise, on the other hand, found in Section 9-25(A)(15) of the same code, is referring to noise specifically coming from the venue in question. It is defined as: "*noise that a reasonable person of normal sensibilities would find excessive and that can be heard at least one hundred (100) feet from the business.*" Unreasonable Noise is referred to here as "*unlawful*", stating in 9-26(A), that, "*It shall be unlawful for a business that serves alcohol or provides live entertainment to create unreasonable noise that through its operations disturbs the peace or quiet of a residential district that contains dwellings*". It is Unreasonable Noise that is defined in 9-26(D) as sixty eight decibels (-68 dB(A)), not Ambient Noise.

In conclusion, Ambient Noise and Unreasonable Noise are two entirely different noise levels that are not related at all in this Code.

Note: In Section 5.2808 of Scottsdale Code, you find the exact same definition of Ambient Noise. In this case, just as in the case of Section 9-25, ambient noise is defined as the baseline to measure against what is called "Intrusive Noise", which is the noise being generated by a new theme park that is traveling into both commercial and residential areas. As in the case of Section 9-25, Ambient Noise is exclusive of (does not include) the "*noise produced by the activities of the western theme park.*" In contrast, "Intrusive Noise" is the noise being generated by the theme park.

Stipulation #4 of their current Live Entertainment CUP states that, "*NOISE. In addition to the City's Noise Ordinance (Ordinance No. 3192, Article II, Chapter 19 of the Scottsdale Reviews Code), noise generated from this use, including any speakers or other amplification equipment, shall not exceed ambient noise levels consistent to the use and character of the area during hours of operation, as determined by the Zoning Administrator, or designee.*"

Let me explain the key points that I read from the language and intent of Stipulation #4:

A) This stipulation starts off by saying, "*In addition to the City's Noise Ordinance...*". It is clear that this Stipulation is intended to restrict the noise generated from the venue in a greater degree than Ordinance #3192 restricts them. Otherwise, why would this stipulation be added to their CUP.

B) The Stipulation goes on to say that, "*noise generated from this use... shall not exceed ambient noise level of the area... during hours of operation*" for the live entertainment CUP.

i) The hours of operation for "*this use*", is referring to times when their live entertainment is operating. The noise generated by this CUP starts at about 9:30 pm, and continues from that point onward. Perhaps this noise from the live entertainment is not started earlier because management wants to ensure they are not interfering with retail businesses in the area, which close at 9:00 pm.

ii) It is clear that this CUP is being restricted to no greater noise than the "*ambient noise levels*" during hours when this CUP is operating. Given that their live entertainment is not supposed to exceed ambient noise level during these same hours of operation, ambient noise level must be measured no earlier than 9:00 pm, exclusive of noise from the venue. Since this venue does not operate every night of the week, this measurement can easily be taken on a night when their business is closed.

iii) Because there are established commercial, retail, and planned residential community housing immediately surrounding this venue that is being impacted by noise from the business, it is reasonable to assume that "*the area*" defined in this stipulation is referring to a distance of 100 ft from the venue in all directions. Therefore, it would be reasonable to take all noise level measurements at this distance in all directions from the venue. Since the current noise complaints are generally coming from the East, West and South, these directions must be included in any noise measurements. Also, since the highest concentration of noise will be traveling in the direction that the speakers are facing, this is the location that noise measurements generated from the use must be taken. Based on their current CUP and the current direction that the speakers are facing, the police should be measuring this level from the South end of their property, in the parking lot that is adjacent to their business. If their speakers are rotated in a different direction, then the measurements should be taken in that direction.

C) This stipulation states that, "*noise generated from this use shall not exceed ambient noise levels consistent to the use and character of the area during hours of operation*". Perhaps the noise generated from this use was consistent to the use and character of the area by the previous tenant at this venue, but the noise generated by the current tenant is not consistent to the use and character of the area. I do not believe that the police received complaints about noise from this facility while previous tenants were operating under the same live entertainment CUP. The residents in the area have not changed, but the management of the venue has changed. As a result, the noise has increased dramatically, which is

disturbing the residents. Furthermore, there is no noise that can be heard in the area during the hours of operation for this use that is consistent in character to this noise. The ambient noise in the area is primarily background road noise, which could be compared to white noise. The noise from this venue, on the other hand, is entirely different. It is almost exclusively rock music, with a heavy syncopated beat from various instruments, screaming and yelling from both the live musicians on the stage and the audience, etc. There is no way to compare the noise from this venue with the ambient noise of the area.

5) Would it be reasonable to request that "the area", as defined in the same stipulation, be "100 feet from the property"? This is shown as the normal distance to measure from such a facility.

BRYAN: That is consistent with the Noise Ordinance if it is measured in a residential district.

6) Can you please let us know again what the approval process is for this CUP and the timing of it as you know at this point? In addition to getting you the list of stipulations, we need to make sure we have a petition distributed and a community meeting setup well in advance of this matter coming to your Commission. Therefore, we need as much advance notice as possible for what is happening and when.

BRYAN: We are currently waiting on a resubmittal of the application. Once the application is resubmitted, there will be a staff review period of approximately 3 weeks. If it is determined to be ready for hearing, the Planning Commission meeting will be scheduled and will likely fall approximately 30 days out from when the application was determined. The City Council meeting would typically follow 30-45 days after the Planning Commission meeting. Please keep in mind these are estimates and may change based on the Planning Commission and City Council meeting schedules.

LUKE: As I understand it, this period has expired. Therefore, I would like to request that the above clarifications be added to the stipulations for any tenant to abide by. Realize that we are not changing the stipulations already in place. We are merely requesting that the existing stipulations be clarified so that they are measurable.

7) Who should a petition be addressed to? Yourself or our City Counsel member or both?

BRYAN: You may address to me or to the City Council.

LUKE: We are still working on this.

8) What level of detail do you need to have on the stipulations? I assume that if we want specifics then we need to come up with the specifics ourselves, such as I was referring to in my previous message below, right?

BRYAN: As much detail as you would like to provide. Keep in mind – staff will write the final language for any stipulations. The important part is for you to get the ideas across more than focusing on specific language. Whatever you provide specifically will be included in our reports to the City Council as public comment.

LUKE: Please use the information above to start with. This is certainly not the full compliment of stipulations we would like to request. There are many stipulations that various neighbors have requested be added to what is in place today. But, this is some of them that need clarification. Please let me know if there is a deadline for submitting additional stipulations.

9) Will the specifics we are requesting be shared with the applicant?

BRYAN: Yes. Any correspondence received regarding a specific case is considered a public record and the City is obligated to notify the applicant. Emails and comments will also be included in our staff reports which are distributed to the public.

LUKE: Are emails and comments like I am sending to you now in turn sent to the applicant once you receive them, or are they just made available to the public? If they are sent to the applicant, then can you please send any correspondence from representatives of the applicant to us as well?

10) Correct me if I am wrong, but Stipulation #5 and #6 of the existing CUP indicates that the live entertainment is restricted to the interior of the building rather than the exterior. Stipulation #6 states that, "*The live entertainment activities shall be limited to the tenant area identified on the Site/Floor Plan as "B: El Santo".*" So, this limits the live entertainment to the El Santo area. Further, Stipulation #5 states that, "*Doors and windows that separate the interior of the building for the El Santo tenant area from the adjoining patio may remain open during live entertainment performances. All other door and windows are proposed to remain closed during live entertainment performances.*"

Based on what I read in this stipulation, the doors and windows are to remain closed during live entertainment, except for those between El Santo, which is described here as "*the interior of the building*", and "*the patio*", which would naturally be located outside. Since Stipulation #5 is referring to the doors and windows between the inside (El Santo) area and the outside patio area, it seems clear that these stipulations declare that the live entertainment is to be held on the interior of the building rather than the exterior, which is unlike the way they are operating today.

If it is allowable under this CUP for live entertainment to be held outside, then why would the stipulations say that: (a) live entertainment is restricted to El Santo; (b) El Santo is on the "*interior of the building*"; (c) El Santo is adjacent to the "*patio*", which would be outside; (d) only "*doors and windows that separate the interior of the building for the El Santo tenant area from the adjoining patio may remain open during live entertainment*"; and (e) "*all other doors and windows are ... to remain closed during live entertainment.*"

The opening statement of this collection of Stipulations for this particular CUP specifically says that, "*These stipulations are in order to protect the public health, safety, welfare, and the City of Scottsdale*". Since these stipulations are written in order to protect the public health, it would NOT make sense to me that the stipulation require that "*all other doors and windows are to remain closed during the live entertainment*" if the live entertainment is already allowed to be held outside on the patio. It makes perfect sense that, as in the case of most other live entertainment CUPs throughout Scottsdale, the live entertainment is restricted to inside the building, and the doors and windows facing their own outdoor patio area (which is on the East side of the building) are the only ones that can remain open during live entertainment. I don't think I am taking anything out of context here, am I? Perhaps I am missing something. If I am wrong, then the stipulation is written in a confusing manner and needs to be modified like stipulation #4. Alternatively, they have modified their site plan, and the stipulations were not changed at the same time. If they modified their site plan, did the original one include a stage outside of the building?

Best regards,
Luke Skelton

Best regards,
Luke Skelton

--

Thank you and God bless, Luke Skelton Good News TV/GNTV Latino MyGoodNewsTV.com

Cluff, Bryan

From: Amy Satterfield <mamsat5@cox.net>
Sent: Friday, October 19, 2018 10:18 PM
To: Cluff, Bryan
Subject: BLK LIVE

Bryan,

I am writing to you to let you know that I placed a noise complaint with the non-emergency number of the Scottsdale Police department this evening. BLK Live's music is so loud that I am able to hear it inside my home with the doors and windows closed. I can hear the vocals, drums, etc.

It is really sad for me as this is the time of year it is nice to have the windows open in the evening and that just isn't a possibility with the level of noise BLK is creating.

In speaking with the police officers previously, they have told me that they have come to the front of my house to see if they can hear anything but did not. That makes sense as the house blocks the noise but the noise level on the back side of the house is much different.

Can you tell me when the next step will take place in this process? This is so discouraging as we are not able to enjoy peace and quiet that we should be afforded in our own home.

I look forward to hearing from you on the timing of next steps.

Amy Satterfield
602-478-1912
mamsat5@cox.net

Cluff, Bryan

From: Carol <cb723@aol.com>
Sent: Friday, October 19, 2018 8:39 PM
To: Cluff, Bryan
Subject: BLK Live

Carol's iPhone

Friday night ... feels like BKK Live is performing in my bedroom ... they need to take the noise down to normal levels !

Cluff, Bryan

From: mail list <mail_list@cox.net>
Sent: Friday, October 19, 2018 8:28 PM
To: Kuester, Kelli
Cc: City Council; Thompson, Jim; Rodbell, Alan - 855; Cluff, Bryan; Rocco@blkliveaz.com
Subject: Re: Must it be so loud?

Another beautiful evening.... will my windows be open? Nope. Because there's an outdoor concert venue down the block blaring away.

BLK Live, the scorn of the neighborhood... and what do we get from the city council? Lots of words, no action. I wonder what kind of payoffs are going on. I think it's time to get the media involved since the council clearly has no interest in taking care of it's citizens.

On Sep 19, 2018, at 9:34 AM, Kuester, Kelli <KKuester@Scottsdaleaz.gov> wrote:

Good morning,

Mayor Lane and the City Councilmembers have asked that I thank you for your email.

We are aware of the noise issues related to BLK Live and the Planning and Development Department is reviewing the submitted application for amendment to their Use Permit as well as working with the applicant in an attempt to address the noise issues. Your comments will be included in the staff report to the Planning Commission and the City Council when the case moves forward. For additional information regarding the applications you may follow the links below to the case fact sheet. The fact sheet will be updated with public hearing information, when scheduled.

<https://eservices.scottsdaleaz.gov/bldgresources/Cases/Details/48841>

I hope this information is helpful, please let me know if you have any questions.

Best,

Kelli Kuester
Management Assistant to the Mayor
3939 N. Drinkwater Blvd., Scottsdale, AZ 85251
kkuester@scottsdaleaz.gov
(480) 312-7977

From: mail list <mail_list@cox.net>
Sent: Thursday, September 13, 2018 10:34 PM
To: Korte, Virginia <VKorte@Scottsdaleaz.gov>
Cc: Kuester, Kelli <KKuester@Scottsdaleaz.gov>; Rocco Visnjic <rocco@blkliveaz.com>; Thompson, Jim <JThompson@Scottsdaleaz.gov>; City Council <CityCouncil@scottsdaleaz.gov>; Cluff, Bryan <BCluff@Scottsdaleaz.gov>; Rodbell, Alan - 855 <arodbell@Scottsdaleaz.gov>; Coffee@scottsdaleaz.gov; Gollihar, George - 752 <ggollihar@Scottsdaleaz.gov>

Cluff, Bryan

From: Carol <cb723@aol.com>
Sent: Monday, October 15, 2018 7:48 AM
To: Cluff, Bryan
Cc: barbhallin@q.com; saskelton7@gmail.com
Subject: BLK Live

Last night Oct 15 once again BLK Live was SO loud kids couldn't sleep (a school night)... there is NO excuse for being so loud ... everyone can enjoy the music a few decibels lower this is an ongoing problem you need to address... it's terrible we have to call the police every time!

Carol Bruckner

Carol's iPhone

Cluff, Bryan

From: mail list <mail_list@cox.net>
Sent: Saturday, October 06, 2018 5:08 AM
To: Kuester, Kelli
Cc: City Council; Thompson, Jim; Rodbell, Alan - 855; Cluff, Bryan
Subject: Re: Must it be so loud?

Last night was one of the first really nice weather nights in a while. Was I able to enjoy to with my windows open? Nope. Because someone thought it was a good idea to put an outdoor concert venue a block a way from residences. Come on people... this is now become a bad joke. There's a concerted effort by some in the area to constantly call PD as a way to make a statement about this. Isn't that an absurd waste of vital resources? All so a bar owner can host has been 80s bands at impossible volumes? Stop the insanity. Let BLK operate like other bars - WITH THE BANDS INSIDE behind closed doors.

Remember, it's an election year!

On Sep 19, 2018, at 9:34 AM, Kuester, Kelli <KKuester@Scottsdaleaz.gov> wrote:

Good morning,

Mayor Lane and the City Councilmembers have asked that I thank you for your email.

We are aware of the noise issues related to BLK Live and the Planning and Development Department is reviewing the submitted application for amendment to their Use Permit as well as working with the applicant in an attempt to address the noise issues. Your comments will be included in the staff report to the Planning Commission and the City Council when the case moves forward. For additional information regarding the applications you may follow the links below to the case fact sheet. The fact sheet will be updated with public hearing information, when scheduled.

<https://eservices.scottsdaleaz.gov/bldgresources/Cases/Details/48841>

I hope this information is helpful, please let me know if you have any questions.

Best,

Kelli Kuester
Management Assistant to the Mayor
3939 N. Drinkwater Blvd., Scottsdale, AZ 85251
kkuester@scottsdaleaz.gov
(480) 312-7977

From: mail list <mail_list@cox.net>
Sent: Thursday, September 13, 2018 10:34 PM
To: Korte, Virginia <VKorte@Scottsdaleaz.gov>
Cc: Kuester, Kelli <KKuester@Scottsdaleaz.gov>; Rocco Visnjic <rocco@blkliveaz.com>; Thompson, Jim <JThompson@Scottsdaleaz.gov>; City Council <CityCouncil@scottsdaleaz.gov>; Cluff, Bryan <BCluff@Scottsdaleaz.gov>; Rodbell, Alan - 855 <arodbell@Scottsdaleaz.Gov>; Coffee@scottsdaleaz.gov; Gollihar, George - 752 <ggollihar@Scottsdaleaz.Gov>

Cluff, Bryan

From: mail list <mail_list@cox.net>
Sent: Wednesday, October 03, 2018 8:14 PM
To: Kuester, Kelli
Cc: City Council; Thompson, Jim; Rodbell, Alan - 855; Cluff, Bryan
Subject: Re: Must it be so loud?

Once again, BLK Live VERY loud tonight with a band playing outside. The notion they're allowed to run an OUTDOOR CONCERT venue so close to homes is an absurdity.

When will the madness end??????

There's an election coming up folks... remember that.

On Sep 19, 2018, at 9:34 AM, Kuester, Kelli <KKuester@Scottsdaleaz.gov> wrote:

Good morning,

Mayor Lane and the City Councilmembers have asked that I thank you for your email.

We are aware of the noise issues related to BLK Live and the Planning and Development Department is reviewing the submitted application for amendment to their Use Permit as well as working with the applicant in an attempt to address the noise issues. Your comments will be included in the staff report to the Planning Commission and the City Council when the case moves forward. For additional information regarding the applications you may follow the links below to the case fact sheet. The fact sheet will be updated with public hearing information, when scheduled.

<https://eservices.scottsdaleaz.gov/bldgresources/Cases/Details/48841>

I hope this information is helpful, please let me know if you have any questions.

Best,

Kelli Kuester
Management Assistant to the Mayor
3939 N. Drinkwater Blvd., Scottsdale, AZ 85251
kkuester@scottsdaleaz.gov
(480) 312-7977

From: mail list <mail_list@cox.net>
Sent: Thursday, September 13, 2018 10:34 PM
To: Korte, Virginia <VKorte@Scottsdaleaz.gov>
Cc: Kuester, Kelli <KKuester@Scottsdaleaz.gov>; Rocco Visnjic <rocco@blkliveaz.com>; Thompson, Jim <JThompson@Scottsdaleaz.gov>; City Council <CityCouncil@scottsdaleaz.gov>; Cluff, Bryan <BCluff@Scottsdaleaz.gov>; Rodbell, Alan - 855 <arodbell@Scottsdaleaz.Gov>; Coffee@scottsdaleaz.gov; Gollihar, George - 752 <ggollihar@Scottsdaleaz.Gov>
Subject: Re: Must it be so loud?
Importance: High

Re-send to add a few people that need to know of this.

I can only assume that meeting never took place because here we are once again with BLK BLARING LOUD

This insanity has to end.

On May 2, 2018, at 8:09 PM, Korte, Virginia <VKorte@Scottsdaleaz.gov> wrote:

Please know the city staff has been meeting with the management of BLK Live in order to find a compromise. V

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From: mail list <mail_list@cox.net>

Sent: Wednesday, May 2, 2018 4:57:08 PM

To: Kuester, Kelli

Cc: Rocco Visnjic; Broadstone Scottsdale Quarter; City Council; Thompson, Jim

Subject: Re: Must it be so loud?

Thank you! I hope BLK can be convinced to be a quality neighbor to the community.

On May 2, 2018, at 3:15 PM, Kuester, Kelli <KKuester@Scottsdaleaz.gov> wrote:

Good afternoon,

Thank you for your correspondence. We have heard many similar concerns and we appreciate your input as we continue to monitor this situation.

Please let me know if you have any questions.

Best,

Kelli Kuester

Management Assistant to the Mayor
3939 N. Drinkwater Blvd., Scottsdale, AZ 85251
kkuester@scottsdaleaz.gov
(480) 312-7977

From: mail list <mail_list@cox.net>

Sent: Wednesday, April 25, 2018 10:36 PM

To: Kuester, Kelli <KKuester@Scottsdaleaz.gov>

Cluff, Bryan

From: Richard & Kathi <haasienda@cox.net>
Sent: Tuesday, October 02, 2018 8:43 AM
To: ikea@scottsdaleaz.gov; Weiss, Kit; Cluff, Bryan; rodbell@scottsdaleaz.gov; Coffee@scottsdaleaz.gov; Gollihar, George - 752; City Council
Subject: BLK Live - Please help put a stop to this public nuisance

My name is Kathi Haas. My husband and I live at 6907 East Evans Drive – we are original homeowners who moved in to our home in 1993. Our email is haasienda@cox.net. I can be reached at 480-399-6716. Although we have a Scottsdale mailing address, we are residents of Phoenix, but we are bothered by a business in your city.

Although we are just over a mile away from BLK Live, we often hear the noise from their concerts. I call the non-emergency Scottsdale Police number when we are home and being bothered by their music. Sometimes this happens well into the evening – past 10 p.m. and several times past midnight.

There is absolutely NO REASON this business should be allowed to disrupt the peace and quiet of neighborhoods in their near vicinity and as far away as 1 mile. I can't even imagine how loud it must be on sight for their customers.

The existing noise ordinance does not protect residents and should be changed.

In the interim, BLK could easily turn down their music and be a good neighbor.

I know many people enjoy attending their concerts, and I have no problem with their business being in operation – they just need to stop ruining our peace and quiet. I fear what it will be like now that it's getting cooler and we will want to enjoy our backyards or having our windows open at night. As it is now, we can hear the music, lyrics, and boom/boom of the drums inside even with our windows closed and the AC running.

Thank you for your consideration and anything you can do to reach a solution with BLK Live.

Kathi Haas

Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Monday, October 01, 2018 9:56 PM
To: Cluff, Bryan
Cc: Barb Hallin (Scottsdale neighbor); Richard Lew; Luke Skelton; Susan Skelton (gmail); Bruce Hallin (Scottsdale neighbor); Luke Skelton
Subject: Re: Follow up questions for BLK Live stipulations

Hi again, Bryan.

Can you please call me? I have a question I need to ask you on the phone about granting their CUP.

Since this is the second message I am sending to you today, each one asking some questions, I copied the earlier message with those 5 questions below, and then asking my additional questions here.

6) Can you please let us know again what the approval process is for this CUP and the timing of it as you know at this point? In addition to getting you the list of stipulations, we need to make sure we have a petition distributed and a community meeting setup well in advance of this matter coming to your Commission. Therefore, we need as much advance notice as possible for what is happening and when.

7) Who should a petition be addressed to? Yourself or our City Counsel member or both?

8) What level of detail do you need to have on the stipulations? I assume that if we want specifics then we need to come up with the specifics ourselves, such as I was referring to in my previous message below, right?

9) Will the specifics we are requesting be shared with the applicant?

Thank you so much.
Luke

On 10/1/2018 2:04 PM, Luke Skelton wrote:

Hi Bryan,

We are preparing to send you the requested stipulations for the Live Entertainment CUP for BLK Live.

Since you said that email is the best way to contact you, I am sending this email message with a couple questions to make sure we have everything right before sending it...

1) As we understand it, BLK Live is the only venue or restaurant/bar in Scottsdale with an outside live entertainment CUP of its kind? Is that correct?

2) Is there a standard for "ambient noise level" that can be applied to stipulation #4 in this CUP, or would we need to measure this ourselves?

Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Monday, October 01, 2018 2:04 PM
To: Cluff, Bryan
Cc: Barb Hallin (Scottsdale neighbor); Richard Lew; Luke Skelton
Subject: Follow up questions for BLK Live stipulations

Hi Bryan,

We are preparing to send you the requested stipulations for the Live Entertainment CUP for BLK Live.

Since you said that email is the best way to contact you, I am sending this email message with a couple questions to make sure we have everything right before sending it...

- 1) Is BLK Live the only venue or restaurant/bar in Scottsdale with an outside live entertainment CUP of its kind?
- 2) Is there a standard for "ambient noise level" that can be applied to stipulation #4 in this CUP, or would we need to measure this ourselves?
- 3) Are we correct in understanding that the maximum "noise level standard" for a CUP in the City of Scottsdale in a non-residential area is set at 50 dB(A) for 11pm – 7am, and 55 dBA for 7am-11pm? This is what we found in your zoning ordinance documents for obtaining a CUP... I think at a park. Can't find it now. My computer crashed, so lost the reference. If not correct, please let me know what is the proper max noise level standard and tell me where to find it.
- 4) Would this be a reasonable level to request as clarification for the "ambient noise level" specified in the stipulation #4 of their CUP?
- 5) Would it be reasonable to request that "the area", as defined in the same stipulation, be "100 feet from the property"? This is shown as the normal distance to measure from such a facility.

Best regards,
Luke Skelton



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Cluff, Bryan

From: Barbara Hallin <barbhallin@q.com>
Sent: Sunday, September 30, 2018 10:31 PM
To: admin@blkliveaz.com; Cluff, Bryan; Keagy, Raun; Weiss, Kit; Coffee, Christopher - 717; Gollihar, George - 752; Rodbell, Alan - 855; City Council
Subject: TOO LOUD!!!!!!

To BLK LIVE and CITY OF SCOTTSDALE officials:

The band at BLK LIVE tonight is currently playing the song TNT. We can hear all the lyrics and recognize the music from nearly 2 miles away near Sweetwater. We have also been hearing all the music all night long. We don't appreciate all the obscenities that were yelled into the microphone prior to that song either. What a way to ruin our great neighborhood where we have lived for 20+ years. Don't you think that's a little too loud BLK LIVE? We've been through this with all of you repeatedly ...we had a meeting with you and you continually do the same thing. Not one single change, improvement or courtesy for your neighbors. No one ever responded to my last email either. Let's see what happens this time! This noise disturbance cannot continue!

Sent from Barb Hallin's iPhone

Cluff, Bryan

From: Carol <cb723@aol.com>
Sent: Sunday, September 30, 2018 10:01 PM
To: Cluff, Bryan
Subject: BLK Live

Sept 30 Sunday night ... a SCHOOL NIGHT ... BLK Live is blasting their music again... they are a plague upon our peaceful neighborhood.... you have got to helo us please!!

Carol's iPhone

Carol

Bruckner

Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Tuesday, September 18, 2018 12:28 AM
To: Cluff, Bryan
Cc: Richard Lew; Luke Skelton
Subject: Meeting follow up questions/requests

Hi Bryan,

Thank you again for meeting with us today.

There are a few remaining follow up questions/requests I would like to ask of you at this point:

- 1) Could you please send us a soft copy of the conceptual site/floor plan submitted by triARC, which is explained in their list of stipulations as "Exhibit A to Exhibit 2". As I understand it from the document, this should show the stage size/location that is currently approved in relation to the "El Santo" and the "Morning Squeeze" areas of the property.
- 2) Stipulation #6 indicates that live entertainment is limited to the El Santo area.
- 3) Stipulation #5 seems to indicate that the El Santo area is adjacent to the patio, but is inside the building. Is that true?
- 4) Is the Morning Squeeze area considered the patio?
- 5) I presume that there is no Stipulation in this document to specifically address any consideration for the surrounding businesses, correct?

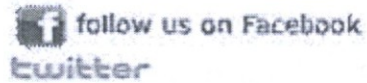
Thank you very much,
Luke Skelton

This email has been checked for viruses by Avast antivirus software.
<https://www.avast.com/antivirus>

Phone: 480-312-2258
Fax: 480-312-7088
bcluff@ScottsdaleAZ.gov

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From: Keagy, Raun
Sent: Monday, September 10, 2018 9:30 AM
To: Cluff, Bryan <BCluff@Scottsdaleaz.gov>
Subject: FW: BLK Live noise complaint

From: Luke Skelton <lukeskelton@cox.net>
Sent: Saturday, September 08, 2018 12:47 AM
To: Keagy, Raun <rkea@scottsdaleaz.gov>
Cc: Barb Hallin (Scottsdale neighbor) <barbhallin@q.com>; Luke Skelton <lukeskelton@cox.net>; Susan Skelton (gmail) <saskelton7@gmail.com>; Luke Skelton <lukeskelton@cox.net>
Subject: BLK Live noise complaint

Hello Raun,

I did not anticipate having to spend much of my evening tonight calling the police and then emailing you and getting agitated with BLK Live again. This is sooo absurd and disruptive to our lives, and I notice no change AT ALL since our meeting in May. In fact, I think tonight was about the loudest I have ever heard it, period, no exaggeration.

The noise from BLK Live was absolutely obnoxious tonight! I was quietly studying and preparing to lead a meeting tomorrow morning, and then I started hearing the noise, louder and louder and louder, until I felt like I was getting blasted out of my office as midnight approached. How can this be a "reasonable" level of sound when I can't even hear myself think, let alone enjoy the peace and quiet of my home? I am in my office, on the opposite end of the house from BLK Live, and I am just hearing yelling, screaming, drums, guitars, etc, etc, as if they are right next door. I am not exaggerating. I am about 6/10ths of a mile away from the facility (to the North), and it sounded like our neighbors had a rock band next door to my house (to the East). What in the world? I did not ask for a concert in my home. I don't understand how this could be considered "acceptable" or "reasonable" with the city of Scottsdale.

We called and filed a complaint with the police. The police officer called us back and said that he took a dB level reading from 74th St and Sweetwater, which is a couple blocks from our house. First of all, I really appreciate him responding and doing what he can. But, his hands are tied. His reading indicated it is only about half (1/2) of the level necessary to violate the ordinance. So, the part of the ordinance that says "reasonable" is basically ignored since it is subjective. It has to be above the measurable level. That makes sense for an officer who has to give tickets based on specific mph. But, it does not make any sense when our whole evening is disrupted as I hear the screaming and feel the thumping through the walls. So, how do we get the ordinance changed? Can you please advise?

I have been away from our home and very busy on most evenings since our meeting at BLK Live in May, so don't know if this has been ongoing or not. Also, it has been hotter over the summer, and finally

cooling off, so perhaps this is one of the first nights they brought the crowd from inside their building out to the patio. I don't know. But, I do understand that sound travels further in cooler weather as we are starting to experience in the evenings.

In either case, what should we do?

I received one message from Bryan Cluff two times in mid-August (8/9 and 8/13), indicating *"we have received the formal Conditional Use Permit application from BLK Live which is requesting an amendment to their Live Entertainment Use Permit ..."* Further, *"The application is in review by City of Scottsdale staff and we will be issuing comments back to the applicant later this month."* Finally, he said that we should *"Please feel free to email me with any comments or concerns you may have regarding the proposal."*

Within 30 minutes of his message, I sent him a reply (8/13) stating *"I have started to draft a list of specifications that I would like to recommend be included in such a conditional use permit if it were granted."* Further, *"Can you please advise or let me know if I should speak with Raun or someone else? Thank you very much. Luke Skelton"*

I never heard back from him at all. I assumed that since he said *"we will be issuing comments back..."*, that he was welcoming input. But, I guess not. So, not sure why he said to email him with comments or concerns. Perhaps you can enlighten me? What is the process? How should our concerns be raised and addressed... you or the City Counsel or ??? Why did Bryan send us the message asking us to let him know of concerns if he was not going to address an inquiry/concern? Who does Bryan represent? Scottsdale businesses or citizens or ??? What is the process to share concerns or recommendations?

In summary, please share with me... what is the best way to specifically address concerns about this conditional use permit application, and more generally what is the best way to get the ordinance changed?

Thank you and God bless,
Luke Skelton



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--
Thank you and God bless, Luke Skelton Good News TV/GNTV Latino MyGoodNewsTV.com

Cluff, Bryan

From: Barbara Hallin <barbhallin@q.com>
Sent: Thursday, September 13, 2018 11:02 PM
To: Keagy, Raun; Cluff, Bryan; Weiss, Kit; Rodbell, Alan - 855; Coffee, Christopher - 717; Gollihar, George - 752; City Council
Cc: Hallin Bruce - Husband
Subject: BLK Live's loud music

To: City of Scottsdale Officials:

BLK Live's loud music is STILL absolutely out of control. It is pounding and disturbing us all night long as I write this email. Completely unacceptable. Despite our neighborhoods meeting with both City of Scottsdale officials and with BLK Live's management/owner a few months ago, they continue to keep the music volume at a disturbing level and they apparently have done nothing that they promised to remedy the situation. Over the summer it was a bit quieter, but that was because concerts were fewer and probably held indoors due to the excessive heat. Now the evenings are cooler, they are back outside and the sound carries even further. Tonight is a school night, children are trying to sleep and those of us who have normal daytime jobs cannot sleep either. The city of Scottsdale's ordinance regarding allowed decibels needs to be re-examined. This is NOT an acceptable level of noise. If this were a once in awhile special event, we might tolerate it. But it is happening 3-4 nights a week and we can no longer enjoy the peacefulness of our homes. Our neighborhood was here decades before BLK Live entered the picture. This sound penetrates indoors into our homes with air conditioners still running and all windows and doors closed. Once the weather is better and we open everything else up, it will be even more unbearable. We have large, beautiful backyards designed for enjoying the outdoors, but now there is no peaceful enjoyment.....all we hear is BLK Live's music.

As long time Scottsdale residents, homeowners, business owners and taxpayers, we demand that the City of Scottsdale take responsibility for the serious mistake the City made in allowing this type of venue at that location in the first place, without any notice to the residents who are affected by this. In addition, the decibels allowed in the city ordinance are not acceptable and should be lowered. If the City approves BLK's expansion plans that are currently under review as related to their conditional use permits, there will be great legal liability on the part of the City of Scottsdale in doing so.

We speak on behalf of many, many neighbors. Not all have the time to start writing letters, but all feel the same as us regarding this problem. This has become a very time consuming issue for all of us.

So we ask you.....How do you all plan to address this issue? We are anxiously awaiting your written reply.

Thank you,

Bruce & Barbara Hallin
7460 E. Dreyfus Ave
Scottsdale, AZ 85260

Cluff, Bryan

From: mail list <mail_list@cox.net>
Sent: Thursday, September 13, 2018 10:34 PM
To: Korte, Virginia
Cc: Kuester, Kelli; Rocco Visnjic; Thompson, Jim; City Council; Cluff, Bryan; Rodbell, Alan - 855; Coffee@scottsdaleaz.gov; Gollihar, George - 752
Subject: Re: Must it be so loud?
Importance: High

Re-send to add a few people that need to know of this.

I can only assume that meeting never took place because here we are once again with BLK BLARING LOUD

This insanity has to end.

On May 2, 2018, at 8:09 PM, Korte, Virginia <VKorte@Scottsdaleaz.gov> wrote:

Please know the city staff has been meeting with the management of BLK Live in order to find a compromise. V

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From: mail list <mail_list@cox.net>
Sent: Wednesday, May 2, 2018 4:57:08 PM
To: Kuester, Kelli
Cc: Rocco Visnjic; Broadstone Scottsdale Quarter; City Council; Thompson, Jim
Subject: Re: Must it be so loud?

Thank you! I hope BLK can be convinced to be a quality neighbor to the community.

On May 2, 2018, at 3:15 PM, Kuester, Kelli <KKuester@Scottsdaleaz.gov> wrote:

Good afternoon,

Thank you for your correspondence. We have heard many similar concerns and we appreciate your input as we continue to monitor this situation.

Please let me know if you have any questions.

Best,

Kelli Kuester
Management Assistant to the Mayor
3939 N. Drinkwater Blvd., Scottsdale, AZ 85251

Cluff, Bryan

From: Carol <cb723@aol.com>
Sent: Thursday, September 13, 2018 9:34 PM
To: Cluff, Bryan
Subject: BLK Live

Tonight is Thursday 9/14/18... once again BLK Live is blasting their music ... it is a SCHOOL night... their promises to keep the music down are LIES... this is a complete outrage to our peaceful neighborhoods!!! They have NO respect for anyone other than lining their pockets.

Carol Bruckner

Carol's iPhone

Cluff, Bryan

From: merle747@aol.com
Sent: Tuesday, September 11, 2018 10:06 AM
To: Cluff, Bryan
Subject: Fwd: BLK Live 7301 E Butherus Dr. Scottsdale, AZ 85260 13-UP-2018

Please add me to your email list to be notified of any Permits and , or Use Permits applied for by BLK Live. I do not know if 13-UP-2018 approved or not.

Patricia Humphrey
12401 N 65th Place
Scottsdale AZ 85254

Merle747@aol.com

Cluff, Bryan

From: Amy Satterfield <mamsat5@cox.net>
Sent: Monday, September 10, 2018 2:15 PM
To: Richard Lew
Cc: Carol; Cluff, Bryan; barbhallin@q.com; brucehallin@q.com; cindybethcohen@hotmail.com; sigona@hotmail.com; erinlane@cox.net; lexkimberes@gmail.com; haasienda@cox.net; lukeskelton@cox.net; susanskelton@cox.net; millerpt@cox.net; vmnaz@cox.net; Hawkinson, Sherri - B1251; steve@vaspower.com; kmaahs9@gmail.com; ackie2@gmail.com; katatjo@yahoo.com; flzatz@gmail.com; joseka@q.com; Christina Noyes; Jenn Hillier; joe@joemcinerney.com; lori.foss@gmail.com; Weiss, Kit
Subject: Re: BLK Live Conditional Use Permits

Rick,

I would echo your comments as that was the first thing I thought of the other night at 11:30 pm when I was hearing not only the bass, but the drums, lead singer, etc. In the meeting, I remember the sound engineer for BLK Live saying that they turn the music down and have indoor music playing after 11 pm. It seems like they may not remember those promises.

In addition to calling the non-emergency police number for the City of Scottsdale that evening, I also called and spoke with the manager at BLK Live. He, of course, was very apologetic and said he would talk with his sound engineer right away. It seems like the music did get quieter 10 min later. While I appreciate his taking my call, being cordial and apparently responding to my concern, there should be no need for me to make the call to begin with.

Bryan,

I have looked at the City website with the listing for the use permits but I have not seen hearing dates posted. Can you please provide an update? I believe we should be writing letters or starting a petition to make sure our voices are heard. Who would we submit letters to with the City of Scottsdale?

I am sure the venue had limited hours and outside events during the hot summer months and it is discouraging that this is becoming an issue again. As evident by the comments on NextDoor, this is not something that will go silently into that goodnight. It is my hope that we able to see some changes take place so this does not continue to be an issue for residents every Wednesday-Sunday evening from here on out.

Regards,

Amy Satterfield
19 year Phoenix resident

On Sep 10, 2018, at 11:53 AM, Richard Lew <rickmail48@yahoo.com> wrote:

I add this commentary to Carol's...

During our face-to-face with the BLK filled, they advised they would monitor and put a lid on the noise, they also promised that they would take all music inside the building at 11:00pm - this did not happen on the 7th.

Cluff, Bryan

From: Richard Lew <rickmail48@yahoo.com>
Sent: Monday, September 10, 2018 11:54 AM
To: Carol
Cc: Cluff, Bryan; barbhallin@q.com; brucehallin@q.com; cindybethcohen@hotmail.com; sigona@hotmail.com; erinlane@cox.net; lexkimberes@gmail.com; haasienda@cox.net; lukeskelton@cox.net; susanskelton@cox.net; millerpt@cox.net; vmnaz@cox.net; mamsat5@cox.net; Hawkinson, Sherri - B1251; steve@vaspower.com; kmaahs9@gmail.com; ackie2@gmail.com; katatjo@yahoo.com; flzatz@gmail.com; joseka@q.com; cmnoyes@gustlaw.com; jhillier4561@gmail.com; joe@joemcinerney.com; lori.foss@gmail.com; Weiss, Kit
Subject: Re: BLK Live Conditional Use Permits

I add this commentary to Carol's...

During our face-to-face with the BLK filled, they advised they would monitor and put a lid on the noise, they also promised that they would take all music inside the building at 11:00pm - this did not happen on the 7th.

Further, they advised they would erect some type of noise-muffling barrier above the south wall to further deaden the racket. This does not appear to have happened.

Rick - another 30 year resident.

Sent from my iPhone

On Sep 8, 2018, at 7:01 AM, Carol <cb723@aol.com> wrote:

9/7/18... once again BLK Live has kept our entire neighborhood awake until midnight with LOUD music... this hasn't happened for the past 3 months while they were trying to expand but now it's happening again ... how are children supposed to sleep??? This is out of control and needs to be dealt with from YOUR office

Carol Bruckner
30 year resident

Carol's iPhone

On Aug 13, 2018, at 1:46 PM, Cluff, Bryan <BCluff@Scottsdaleaz.gov> wrote:

Hello All,

You are receiving this email because of your expressed interest in BLK Live as it relates to their live entertainment application. We have received the formal Conditional Use Permit application from BLK Live which is requesting an amendment to their Live Entertainment Use Permit and Bar Use Permit. The associated case numbers are 12-UP-2018 and 13-UP-2018. The Live Entertainment amendments are related to the stage design, size and location. The amendments to the Bar include the recently constructed patio on the west side of the building (not related to Live Entertainment). The application is in review by City of Scottsdale staff and we will be issuing comments back to the applicant later this month.

The links below will take you to our case fact sheets for the cases where you can find information related to the submittal and future hearing dates (nothing scheduled yet).

Cluff, Bryan

From: Keagy, Raun
Sent: Monday, September 10, 2018 9:30 AM
To: Cluff, Bryan
Subject: FW: BLK Live noise complaint

Hey Bryan.....FYI.....Raun

From: Luke Skelton <lukeskelton@cox.net>
Sent: Saturday, September 08, 2018 12:47 AM
To: Keagy, Raun <rkea@scottsdaleaz.gov>
Cc: Barb Hallin (Scottsdale neighbor) <barbhallin@q.com>; Luke Skelton <lukeskelton@cox.net>; Susan Skelton (gmail) <saskelton7@gmail.com>; Luke Skelton <lukeskelton@cox.net>
Subject: BLK Live noise complaint

Hello Raun,

I did not anticipate having to spend much of my evening tonight calling the police and then emailing you and getting agitated with BLK Live again. This is sooo absurd and disruptive to our lives, and I notice no change AT ALL since our meeting in May. In fact, I think tonight was about the loudest i have ever heard it, period, no exaggeration.

The noise from BLK Live was absolutely obnoxious tonight! I was quietly studying and preparing to lead a meeting tomorrow morning, and then I started hearing the noise, louder and louder and louder, until I felt like I was getting blasted out of my office as midnight approached. How can this be a "reasonable" level of sound when I can't even hear myself think, let alone enjoy the peace and quiet of my home? I am in my office, on the opposite end of the house from BLK Live, and I am just hearing yelling, screaming, drums, guitars, etc, etc, as if they are right next door. I am not exaggerating. I am about 6/10ths of a mile away from the facility (to the North), and it sounded like our neighbors had a rock band next door to my house (to the East). What in the world? I did not ask for a concert in my home. I don't understand how this could be considered "acceptable" or "reasonable" with the city of Scottsdale.

We called and filed a complaint with the police. The police officer called us back and said that he took a dB level reading from 74th St and Sweetwater, which is a couple blocks from our house. First of all, I really appreciate him responding and doing what he can. But, his hands are tied. His reading indicated it is only about half (1/2) of the level necessary to violate the ordinance. So, the part of the ordinance that says "reasonable" is basically ignored since it is subjective. It has to be above the measurable level. That makes sense for an officer who has to give tickets based on specific mph. But, it does not make any sense when our whole evening is disrupted as I hear the screaming and feel the thumping through the walls. So, how do we get the ordinance changed? Can you please advise?

I have been away from our home and very busy on most evenings since our meeting at BLK Live in May, so don't know if this has been ongoing or not. Also, it has been hotter over the summer, and finally cooling off, so perhaps this is one of the first nights they brought the crowd from inside their building out to the patio. I don't know. But, I do understand that sound travels further in cooler weather as we are starting to experience in the evenings.

In either case, what should we do?

I received one message from Bryan Cluff two times in mid-August (8/9 and 8/13), indicating "*we have received the formal Conditional Use Permit application from BLK Live which is requesting an amendment to their Live Entertainment Use Permit ...*" Further, "*The application is in review by City of Scottsdale staff and we will be issuing comments back to*

the applicant later this month." Finally, he said that we should "Please feel free to email me with any comments or concerns you may have regarding the proposal."

Within 30 minutes of his message, I sent him a reply (8/13) stating *"I have started to draft a list of specifications that I would like to recommend be included in such a conditional use permit if it were granted."* Further, *"Can you please advise or let me know if I should speak with Raun or someone else? Thank you very much. Luke Skelton"*

I never heard back from him at all. I assumed that since he said *"we will be issuing comments back..."*, that he was welcoming input. But, I guess not. So, not sure why he said to email him with comments or concerns. Perhaps you can enlighten me? What is the process? How should our concerns be raised and addressed... you or the City Counsel or ??? Why did Bryan send us the message asking us to let him know of concerns if he was not going to address an inquiry/concern? Who does Bryan represent? Scottsdale businesses or citizens or ??? What is the process to share concerns or recommendations?

In summary, please share with me... what is the best way to specifically address concerns about this conditional use permit application, and more generally what is the best way to get the ordinance changed?

Thank you and God bless,
Luke Skelton



Virus-free. www.avast.com

Cluff, Bryan

From: Diana Shaw <dgsrshaw@hotmail.com>
Sent: Saturday, September 08, 2018 6:57 PM
To: Cluff, Bryan
Subject: BLK Live-Noise Levels Excessive

We have been upset with the noise levels coming from BLK Live since the beginning.

Last night was absolutely ridiculous. When my husband can't fall asleep because it sounds like there is a band right outside our bedroom window should be illegal... oh, I believe it is! And we are at 68th Street & Thunderbird!

Sad that a business doesn't want to be a good neighbor to some of us who have lived in this area 20+ years and more.

The City of Scottsdale needs to take care of this issue once and for all!

Diana Shaw
Sent from my iPad

Cluff, Bryan

From: Shelagh Sardachuk <shelsard@gmail.com>
Sent: Saturday, September 08, 2018 6:34 PM
To: Cluff, Bryan
Subject: BLK Live

I would appreciate being placed on the mailing list with regard to upcoming permits etc for BLK Live. My husband and I have been very patient and believed the BLK owners were being honest about their concern for the neighbors and noise. It has become obvious that they are only concerned about their bottom line. The music last night was ridiculously loud and went on til after 11:30pm. As home owners and tax payers we should have the right to peace and quiet and enjoyment of our outdoor spaces. I look forward to attending any upcoming meetings re: BLK

Shelagh Sardachuk
shelsard@gmail.com

Sent from my iPad

Cluff, Bryan

From: Carol <cb723@aol.com>
Sent: Saturday, September 08, 2018 7:01 AM
To: Cluff, Bryan
Cc: barbhallin@q.com; brucehallin@q.com; Rickmail48@yahoo.com; cindybethcohen@hotmail.com; sigona@hotmail.com; erinlane@cox.net; lexkimberes@gmail.com; haasienda@cox.net; lukeskelton@cox.net; susanskelton@cox.net; millerpt@cox.net; vmnaz@cox.net; mamsat5@cox.net; Hawkinson, Sherri - B1251; steve@vaspower.com; kmaahs9@gmail.com; ackie2@gmail.com; katatjo@yahoo.com; flzatz@gmail.com; joseka@q.com; cmnoyes@gustlaw.com; jhillier4561@gmail.com; joe@joemcinerney.com; lori.foss@gmail.com; Weiss, Kit
Subject: Re: BLK Live Conditional Use Permits

9/7/18... once again BLK Live has kept our entire neighborhood awake until midnight with LOUD music... this hasn't happened for the past 3 months while they were trying to expand but now it's happening again ... how are children supposed to sleep??? This is out of control and needs to be dealt with from YOUR office

Carol Bruckner
30 year resident

Carol's iPhone

On Aug 13, 2018, at 1:46 PM, Cluff, Bryan <BCluff@Scottsdaleaz.gov> wrote:

Hello All,

You are receiving this email because of your expressed interest in BLK Live as it relates to their live entertainment application. We have received the formal Conditional Use Permit application from BLK Live which is requesting an amendment to their Live Entertainment Use Permit and Bar Use Permit. The associated case numbers are 12-UP-2018 and 13-UP-2018. The Live Entertainment amendments are related to the stage design, size and location. The amendments to the Bar include the recently constructed patio on the west side of the building (not related to Live Entertainment). The application is in review by City of Scottsdale staff and we will be issuing comments back to the applicant later this month.

The links below will take you to our case fact sheets for the cases where you can find information related to the submittal and future hearing dates (nothing scheduled yet).

<https://eservices.scottsdaleaz.gov/bldgresources/Cases/Details/48838>

<https://eservices.scottsdaleaz.gov/bldgresources/Cases/Details/48841>

Please feel free to email me with any comments or concerns you may have regarding the proposal.

Thank you,

Bryan D. Cluff, LEED AP
Senior Planner
City of Scottsdale
Planning & Development
Phone: 480-312-2258
Fax: 480-312-7088

Cluff, Bryan

From: Carol Bruckner <cb723@aol.com>
Sent: Thursday, August 16, 2018 1:13 PM
To: Cluff, Bryan
Subject: Re: BLK Live Conditional Use Permits

LAST summer BLK Live kept our entire neighbors awake until the early morning hours... it was unbearable ... this summer they have been more considerate (I assume because they are planning to expand and they don't want neighbors against them)...if we could get it in WRITING that the noise would never be above the decibels of this summer I think we could all work with them and encourage their success .

Thank you ,
Carol Bruckner
30 yr Scottsdale resident (and I do love music... but I like sleeping too)

Carol's iPhone

On Aug 13, 2018, at 1:46 PM, Cluff, Bryan <BCluff@Scottsdaleaz.gov> wrote:

Hello All,

You are receiving this email because of your expressed interest in BLK Live as it relates to their live entertainment application. We have received the formal Conditional Use Permit application from BLK Live which is requesting an amendment to their Live Entertainment Use Permit and Bar Use Permit. The associated case numbers are 12-UP-2018 and 13-UP-2018. The Live Entertainment amendments are related to the stage design, size and location. The amendments to the Bar include the recently constructed patio on the west side of the building (not related to Live Entertainment). The application is in review by City of Scottsdale staff and we will be issuing comments back to the applicant later this month.

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Please feel free to email me with any comments or concerns you may have regarding the proposal.

Thank you,

Bryan D. Cluff, LEED AP
Senior Planner
City of Scottsdale
Planning & Development
Phone: 480-312-2258
Fax: 480-312-7088
bcluff@ScottsdaleAZ.gov

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Cluff, Bryan

From: Acevedo, Alex
Sent: Monday, August 13, 2018 5:16 PM
To: Cluff, Bryan
Subject: FW: BLK Live expansion

I'll save a copy to the CDS folder and add one to the case file.

Alex

From: cb723@aol.com <cb723@aol.com>
Sent: Monday, August 13, 2018 2:43 PM
To: Acevedo, Alex <AAcevedo@scottsdaleaz.gov>
Subject: BLK Live expansion



BLK Live in the past was SO loud none of us in my neighborhood could sleep...we continuously had to call non emergency POLICE to report them...Children who had to go to school and working people could NOT sleep....I was wondering why they had been so quiet just this summer(last summer was HORRIFIC with noise from BLK Live) but now that I see they have expansion plans that explains everything...If BLK Live thinks neighbors forgot the EXTREME NOISE we suffered they are dead wrong. -- sent by Carol Bruckner (case# 12-UP-2018)



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Cluff, Bryan

From: Luke Skelton <lukeskelton@cox.net>
Sent: Monday, August 13, 2018 2:15 PM
To: Cluff, Bryan
Cc: Luke Skelton
Subject: Re: BLK Live Conditional Use Permits

Hello Bryan,

I received this email from you earlier and want to thank you very much for sending those notices. I have not had a chance to read them yet.

Based on our meeting together at BLK Live, as well as an off-line conversation my wife and I had after that meeting with their sound consultant, I have started to draft a list of specifications that I would like to recommend be included in such a conditional use permit if it were granted. He made several adjustments to the speakers, which I would like to include as conditions of the permit. There are various other specifications as well.

I don't think it would be best and proper to share such information with this whole group yet, especially since BLK Live reps are in distribution. . But, I also don't think it would be best to just wait for the meeting. I would like to do things properly with the best results. Can you please advise or let me know if I should speak with Raun or someone else?

Thank you very much.

Luke Skelton
480-888-6981

On 8/13/2018 1:46 PM, Cluff, Bryan wrote:

Hello All,

You are receiving this email because of your expressed interest in BLK Live as it relates to their live entertainment application. We have received the formal Conditional Use Permit application from BLK Live which is requesting an amendment to their Live Entertainment Use Permit and Bar Use Permit. The associated case numbers are 12-UP-2018 and 13-UP-2018. The Live Entertainment amendments are related to the stage design, size and location. The amendments to the Bar include the recently constructed patio on the west side of the building (not related to Live Entertainment). The application is in review by City of Scottsdale staff and we will be issuing comments back to the applicant later this month.

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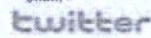
<https://eservices.scottsdaleaz.gov/bldgresources/Cases/Details/48841>

Please feel free to email me with any comments or concerns you may have regarding the proposal.

Thank you,

Bryan D. Cluff, LEED AP
Senior Planner
City of Scottsdale
Planning & Development
Phone: 480-312-2258
Fax: 480-312-7088
bcluff@ScottsdaleAZ.gov

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Thank you and God bless, Luke Skelton Good News TV/GNTV Latino MyGoodNewsTV.com

 Virus-free. www.avast.com

Cluff, Bryan

From: Barbara Hallin <barbhallin@q.com>
Sent: Thursday, August 09, 2018 5:46 PM
To: Cluff, Bryan
Cc: Weiss, Kit; Hallin Bruce
Subject: Re: BLK Live Permits
Attachments: attachment 1.pdf

Hello Bryan,

Thanks for the update on BLK Live's conditional use permits. I am one of the concerned residents who received your email today.

I have attached the complete neighborhood email list (at least complete for now...there may be more people to add later). All of these people need to be notified with the information you just sent us and on all future communications as well. The only people you notified in your email today, were just the ones who sat in on the small meeting at BLK Live. There are many other neighbors who attended larger neighborhood meetings and/or have participated in discussions regarding the issues at BLK Live as concerned residents and property owners. They should all be included in all of the informational emails. Please add all these email addresses (in the attached PDF) to the email you just sent to us and to all future mailings.

Also, for some reason the subject line of all the most recent emails references a 9-22-18 BLK Live meeting. I believe that was just someone's typo which never was corrected. That date is incorrect and irrelevant. Please change the subject line to something else perhaps similar to what I have done in this email to you. That date will confuse people if the same thread is used continuously and it has nothing to do with any scheduled meetings or hearings.

Thank you,

Barb Hallin

On Aug 9, 2018, at 5:09 PM, Cluff, Bryan <BCluff@Scottsdaleaz.gov> wrote:

Hello All,

I wanted to give a quick update to the neighborhood to let you know we have received the formal Conditional Use Permit application from BLK Live which is requesting an amendment to their Live Entertainment Use Permit and Bar Use Permit. The associated case numbers are 12-UP-2018 and 13-UP-2018. The Live Entertainment amendments are related to the stage design, size and location. The amendments to the Bar include the recently constructed patio on the west side of the building (not related to Live Entertainment). The application is in review by City of Scottsdale staff and we will be issuing comments back to the applicant later this month.

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