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October 2, 2023

The proposed modification to section §24-218 (b) will have terrible ramifications for any business that receives unreasonable music noise from a neighboring business, and also for residents who are disturbed by deep bass frequencies.

Omitting the previously-included phrase "shall include but shall not be limited to" means that "Unreasonable Noise" will now be determined by a single, inadequate criterion: dBA.

Most people do not know what "dBA" means. dBA is a method of measuring sound that drastically ignores the low frequencies, commonly known as "bass". * But as everyone knows, bass is *exactly* the problem; the sound that penetrates walls, windows, doors and ceilings.

Simplistic dBA measurements are easy for inspectors to make but they do *not* accurately represent the most common kind of disturbing noise- bass. If your yoga studio, hair salon, law office, or other business is above, behind or next to a business that plays loud music – a gym, club, restaurant or even a clothing store - most of what you hear in your indoor "receiving property" is bass.

This change to the Code will only serve to protect businesses that play loud music without soundproofing. It will not only hurt neighboring businesses, but *protections for residents will be weakened as well.*

While section §24-231 sets limits on *certain* bass music frequencies heard in residences, much of modern club music includes very low "subwoofer" frequencies that the Code presently overlooks. The current §24-218 supplements §24-231, allowing for violations based on levels of sub-bass that any resident would find unreasonable, but not if this change is made. Even truly disturbing levels of sub-bass barely register in a dBA measurement.

If you live next to a bar, nightclub or gym, you will not be able to complain about sub-bass coming through the wall or floor, and if you work next to these noisemakers you won't be able to complain AT ALL. Lawsuits and even injuries are likely to occur.

The proposed change to §24-218 (b) will even affect people outdoors. Loud music coming from an improperly soundproofed establishment would have absolutely no limits on how it could disturb people outdoors or in a park. Deliberately sending sound outside has been banned for decades and now it will be allowed?

Similarly, the proposed modification to section §24-244 would be a terrible mistake. What is being done is to eliminate the prohibition of outdoor music being heard by ear and instead putting the decibel limits of §24-218 on it. And these limits would then only be incorrectly measured using dBA, which as described above ignores bass.

§24-244 has always had the problem that while it was designed and worded to prevent deliberate sending of noise outdoors, but has been used improperly to penalize businesses where there is some accidental, not deliberate, sound leakage. No change is actually needed in that section, just proper enforcement. Businesses must be prevented from deliberately broadcasting noise outdoors, and if they're going to do that on purpose, then no decibel measurements should be required. Leave §24-244 as it has been for years but enforce it to the letter of the law.

This modification to the Code will gut protections against noise that anyone would find unreasonable. Who should the law favor, businesses who play loud music or people and businesses who are trying to quietly enjoy their premises? The answer is that the law should prohibit unreasonable levels of music.

The whole purpose of the Noise Code, as stated in the *Declaration of policy, §24-202*, is:

It is hereby declared to be the public policy of the city to reduce the ambient sound level in the city, so as to preserve, protect and promote the public health, safety and welfare, and the peace and quiet of the inhabitants of the city, prevent injury to human, plant and animal life and property, foster the convenience and comfort of its inhabitants, and facilitate the enjoyment of the natural attractions of the city.

Is that no longer the public policy of the city?

Alan Fierstein



President

**Do not be fooled by the myth that dBA "mimics what the ear hears". It only does that at extremely low levels of sound, like when you're getting your hearing checked and you're in a booth and they ask you to raise your hand as soon as you hear the faintest beep. That is when middle and high frequencies are more easily heard than the bass, at the faintest levels. But as everyone knows, when there is a loud stereo next door, you hear the bass the most, not the middle and high frequencies.*

Int. No. 160

By Council Members Holden, Yeger, Ariola and Vernikov

A Local Law to amend the administrative Code of the city of New York, in relation to the noise standard for commercial establishments

Be it enacted by the Council as follows:

Section 1. Subdivision b of section 24-218 of the administrative Code of the city of New York, as amended by local law 72 for the year 2016, is amended to read as follows:

(b) [Unreasonable] For music originating from an interior space in connection with the operation of any commercial establishment or enterprise, unreasonable noise shall be defined as a sound that exceeds the prohibited noise levels set forth in this subdivision; and for all other sources of noise, unreasonable noise shall include but shall not be limited to sound, attributable to any device, that exceeds the [following] prohibited noise levels set forth in this subdivision:

(1) Sound, other than impulsive sound, attributable to the source, measured at a level of 7 dB(A) or more above the ambient sound level at or after 10:00 p.m. and before 7:00 a.m., as measured at any point within a receiving property or as measured at a distance of 15 feet or more from the source on a public right-of-way.

(2) Sound, other than impulsive sound, attributable to the source, measured at a level of 10 dB(A) or more above the ambient sound level at or after 7:00 a.m. and before 10:00 p.m., as measured at any point within a receiving property or as measured at a distance of 15 feet or more from the source on a public right-of-way.

(3) Impulsive sound, attributable to the source, measured at a level of 15 dB(A) or more above the ambient sound level, as measured at any point within a receiving property or as measured at a distance of 15 feet or more from the source on a public right-of-way. Impulsive sound levels shall be measured in the A-weighting network with the sound level meter set to fast response. The ambient sound level shall be taken in the A-weighting network with the sound level meter set to slow response.

§ 2. Section 24-244 of the administrative Code of the city of New York is amended by adding a new subdivision c to read as follows:

(c) This section shall not apply to music originating from an interior space in connection with the operation of any commercial establishment or enterprise.

§ 3. This local law takes effect immediately.

Session 12
JSA
LS # 13
3/28/2022

Session 11
JB/MAJ
LS #116