



# MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. LTC # **379-2013**

## LETTER TO COMMISSION

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: October 18, 2013

SUBJECT: Noise Report – Quarter 3 (Q3), 2013 (July through September 2013)

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This Letter to Commission (LTC) provides information and analysis on Code Compliance's enforcement efforts regarding Noise Ordinance cases for the period between July 1, 2013 and September 30, 2013. Data for this analysis is compiled and reported as required by the 2008 Administrative Guidelines.

The report includes the following support documentation:

- Attachment A: Detailed data table for all noise cases for Q3-2013.
- Attachment B: Detailed data table for Commercial noise cases for Q3-2013.
- Attachment C: Disposition of noise cases presented at Special Master Appeal Hearings for Q3-2013.

### I. SUMMARY

During the rating period, there were a total of 761 noise cases opened. Of these:

- ❖ Eighteen (18) were canceled by complainant.
- ❖ Twenty six (26) were voided due to input error.
- ❖ Forty-Five (45) were duplicate complaints.
- ❖ Fifteen (15) were addressed by the Police Department; and
- ❖ Three (3) were not applicable to Code.

The high number of duplicate complaints will be discussed further in the report, and is unique to a specific address that has been the subject of much discussion and resources.

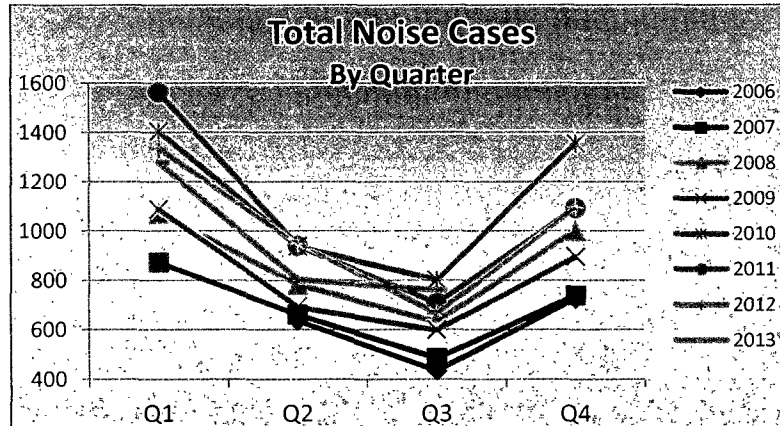
Once the above referenced 107 cases are subtracted from the total number of calls, the result is 654 cases with a valid or non-valid disposition. Of the 654, 457 cases (69.9%) were identified to have taken place at a residentially zoned location; 130 cases occurred at a commercial establishment (19.9%); and 67 (10.2%) were identified as taking place within public property and are reflected as "other". The matrix below reflects the breakdown by location type.

BREAKDOWN OF TOTAL CASES BY TYPE July 2013 – September 2013		
RESIDENTIAL	457	69.9%
COMMERCIAL	130	19.9%
OTHER	67	10.2%
TOTAL	654	100.0%

During the rating period, the aggregate validity rate for all noise cases was identified to be at 23.2%; and the validity rate for noise cases within commercially zoned areas was 22.3%.

## I. ALL NOISE CASES

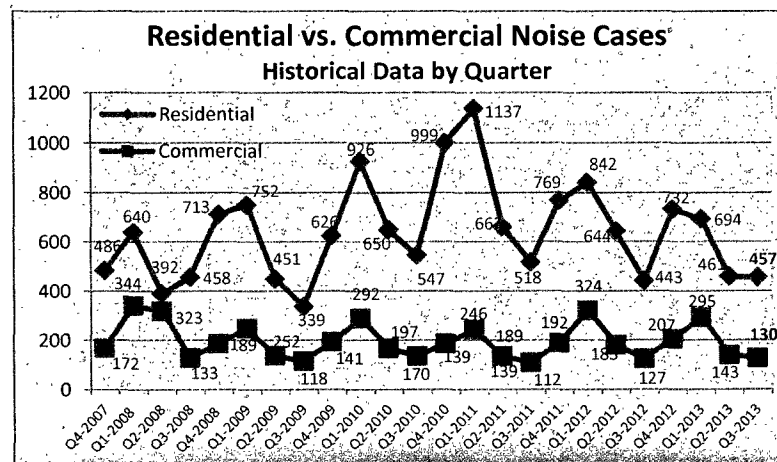
Historical analysis reflects a consistent pattern whereby Q3 has had the lowest number of Noise Violations within any calendar year. This is an expected pattern as during the summer months there are not as many festivities or special events (i.e. holidays, music festivals, etc.) as compared to Q4 or Q1 of each year. The chart below demonstrates the quarterly trend for the past eight (8) years.



As reflected in Attachment A, during Q3-2013, 152 of the 654 cases were deemed valid, with an **overall validity rate of 23.2%**. Further analysis by establishment type indicates a validity rate of 22.3% for residential properties, 20.3% for Commercial properties, and 25.4% for “other”. As aforementioned, the “other” category reflects noise-related cases identified to have taken place within public property or the public right of way. Detailed information is presented in table form in Attachment A for all cases, and in Attachment B for commercial cases.

## II. COMMERCIAL CASES

A trend analysis beginning on Q4 2007 clearly reflects that the majority of noise-related cases take place within residentially zoned areas. Below is a historical chart depicting this occurrence.



Historically, commercial violations have been explored more extensively than residentially zoned noise violations. In that vein, the remainder of this report will focus on commercial noise violations. Commercial noise cases are those that take place in clubs, hotels, condo/hotels, restaurants, retail and commercial construction sites. During the rating period, of the 654 noise cases with a disposition, 130 were deemed to be commercial in nature (19.9%). Analysis of the 130 commercial cases reflects that 29 of those cases were deemed valid (22.3%). A detailed breakdown of the commercial cases by type is reflected in Attachment B.

**A. Type of Noise - Commercial Cases**

In keeping with the trend in noise reports since 2006, loud music is the most common type of noise reported. During the rating period, loud music accounted for 75.4% of commercial noise cases opened. This was followed by construction noise (31 cases – 23.8%). In depth analysis is provided in Attachment B.

**B. Time/Day of Week of Commercial Noise**

Following a similar pattern as to previous years, data for Q3-2013 reflected a relatively even balance for cases opened/reported between 7 AM to 11 PM (76 cases – 58.5%) and those cases opened/reported between 11 PM and 7 AM (54 cases – 41.5%). Thus, the 8-hour period between 11 PM and 7 AM accounted for nearly the same amount of noise cases for the 16-hour period between 7 AM and 11 PM. Attachment B provides detailed data.

During this reporting period, Friday is without question the day with the highest incidence of noise violations, followed by Saturday and then Sunday. Fridays is unequivocally the day with the highest incidence of cases (29 – 22.3%); accounting for nearly ¼ of all commercial noise cases through the week, followed by Saturdays (20%), Sundays (15.4%) and Mondays (12.3%).

**C. Arrival Time**

During the rating period, data analysis on “arrival time” determined by information obtained from the Parking Department (as to time call received) and Code (as to time of code officer’s arrival), reflects no significant difference between valid and non-valid commercial cases. As a matter of fact, on commercial violations, the average time of response to 25 valid noise cases averaged more than six (6) minutes more than the non-valids.

However, it is imperative to mention that the overall average of all noise cases averaged 23 minutes and 41 seconds, about 3 and half minutes greater than the targeted response time of 20 minutes.

Average Time for Code Officer to Arrive (Q3-2013)					
Number of Cases*	Establishment Type	Average Time to Officer's Arrival	Status	Number of Cases*	Average Time from Call Received by Dispatch to Code Officer's Arrival
573	Residential	0:24:03	VALID	96	0:23:44
			NON-VALID	305	0:24:09
	Commercial	0:22:49	VALID	25	0:27:43
			NON-VALID	90	0:21:27
	Other	0:22:49	VALID	12	0:24:35
			NON-VALID	45	0:22:21
All Cases	0:23:41	VALID	133	0:24:34	
		NON-VALID	440	0:23:25	

\*Average Time Calculated using those cases with valid time data for both "Time Call Received by Dispatch" and "Time of Arrival by Code Officer"

## MAJOR / SPECIAL EVENTS

Within the rating period, there were no major events that would have impacted noise violations, perhaps with the exception of the 4<sup>th</sup> of July. According to Permits Plus, the database utilized by Code Compliance, between July 4 and July 5, 2013, there were 25 noise complaints (i.e. loud music, construction, and animals). From the 25, there was one (1) complaint identified for illegal/unauthorized fireworks and Code responded along with the Fire and Police Departments. Case notations reflect that upon arrival, the alleged fireworks users dispersed.

## UNIQUE ISSUES

As mentioned in the summary, it is important to denote that during Q3-2013, there has been a unique situation that skewed the total number of requests for service and the overall validity rates, and that information and its impact, needs to be considered.

The crux of the issue has been noise emanating and related to the approved and duly permitted installation of an air conditioning (A/C) system at 6261 Collins Avenue. This property had been vacant for several years and the new owner installed an A/C system according to approvals and specifications from the Planning and Building Departments. The challenge and ongoing concerns regarding the noise from the A/C system is detailed in the LTC # 340-2013. However, during the rating period, Code Compliance received a total of 69 calls from the residents immediately south (6061 Collins Avenue) and immediately north (6301 Collins Avenue) of the subject property. If all the calls related to 6261 Collins Avenue are removed from the equation, the overall validity rate would increase from 23.2% to 26%.

Code Compliance is looking forward to a positive resolution of this issue once the installation of additional buffers and other technical sound mitigating devices are installed to the air cooled chiller and A/C system.

## SPECIAL MASTER APPEAL HEARINGS

During the reporting period encompassing July 1, 2013 through September 30, 2013, there were a total of nine (9) appeals heard or filed with the Special Master for noise-related cases. As of the date of this Noise Report, five (5) cases were adjudicated guilty, two (2) have yet to be heard, one (1) was withdrawn by the petitioner and the fine was paid, and one (1) case was dismissed in favor of the petitioner. The respective and detailed status of the nine (9) cases is reflected in **Attachment C**.

## REORGANIZATION

As was the case last year, Code Compliance administration continues its emphasis on training, monitoring and follow up by supervisory staff staying focused on areas of improvement, accountability, interdepartmental communication, and data collection.

  
JLM/JMJ/HC/RSA

### Attachments

- Attachment A - Noise Data – 7/01/2013 through 9/30/2013
- Attachment B – Commercial Noise Cases - 7/01/2013 through 9/30/2013
- Attachment C – Special Master Appeal Hearings - (7/01/2013 through 9/30/2013)

ALL CASES  
Noise Data 07/01/2013 - 09/30/2013 (Q3-2013)

Total Number of Noise Complaint Cases Opened/Calls Received

Total Cases Opened	761	Less Voided, Canceled, Duplicate Complaints, Complaints not Applicable to Code Compliance	107	Total with Dispositions	654	Code or PD Initiated (Proactive)	6	Complaint Calls Received	648
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Disposition of All Noise Cases

Total Cases	761
Canceled**	18
Voided*	26
Duplicate Complaint	45
Not Applicable to Code	3
Referred to PD	15
<b>Total Valid and Non-Valid Cases</b>	<b>654</b>
Valid Cases	152
Non-valid Cases	502

Valid Violation Breakdown

Verbal	9	5.9%
Written Warning	119	78.3%
Violation	24	15.8%
<b>Total Valid Cases</b>	<b>152</b>	<b>100%</b>

\*Voided cases are cases that were entered in error, etc.

\*\*Canceled calls are cases canceled by the complainant prior to a Code Officer's arrival

Noise Cases by Type of Establishment

	Total Cases			Valid		Non-Valid	
	Number of Cases	Percentage of All Cases	Number of Cases	Percentage of Cases	Number of Cases	Percentage of Cases	
Residential	457	69.9%	106	23.2%	351	76.8%	
Commercial	130	19.9%	29	22.3%	101	77.7%	
Other	67	10.2%	17	25.4%	50	74.6%	
<b>Totals</b>	<b>654</b>	<b>100%</b>	<b>152</b>	<b>23.2%</b>	<b>502</b>	<b>76.8%</b>	

Residential = Apt, Condo, Single Family  
Commercial = Bar, Club, Hotel, Hotel-Condo, Restaurant, Retail, Constr-Com  
Other = Bandshell, Beach, Public Property, etc.

Noise Cases by Noise Type

Noise Type	Total Cases			Valid Cases		Non-Valid Cases	
	Number of Cases	Percentage of All Cases	Number of Cases	Percentage of Cases	Number of Cases	Percentage of Cases	
APT	252	38.5%	44	6.7%	208	31.8%	
BAR	19	2.9%	4	0.6%	15	2.3%	
CLUBS	7	1.1%	1	0.2%	6	0.9%	
CONDO	111	17.0%	34	5.2%	77	11.8%	
CONDO-HOTEL	42	6.4%	5	0.8%	37	5.7%	
HOME	94	14.4%	28	4.3%	66	10.1%	
OTHER	67	10.2%	17	2.6%	50	7.6%	
RESTAURANT	36	5.5%	7	1.1%	29	4.4%	
RETAIL	5	0.8%	3	0.5%	2	0.3%	
HOTEL	21	3.2%	9	1.4%	12	1.8%	
<b>Totals</b>	<b>654</b>	<b>100%</b>	<b>152</b>	<b>23.2%</b>	<b>502</b>	<b>76.8%</b>	

Noise Cases by Noise Type

Noise Type	TOTALS			Valid Cases		Non-Valid Cases	
	Number of Cases	Percentage of All Cases	Number of Cases	Percentage of Cases	Number of Cases	Percentage of Cases	
LOUD MUSIC	425	65.0%	95	14.5%	330	50.5%	
LIVE ENTERTAINMENT	4	0.6%	1	0.2%	3	0.5%	
BARKING DOG	79	12.1%	18	2.8%	61	9.3%	
CROWD NOISE	0	0.0%	0	0.0%	0	0.0%	
CONSTRUCTION	132	20.2%	33	5.0%	99	15.1%	
OTHER	0	0.0%	0	0.0%	0	0.0%	
HONKING CARS/ALARMS	14	2.1%	5	0.8%	9	1.4%	
<b>Totals</b>	<b>654</b>	<b>100%</b>	<b>152</b>	<b>23.2%</b>	<b>502</b>	<b>76.8%</b>	

**Call Time of Day / Day of Week**

ALL CASES (VALID AND NON-VALID)

	Total	7a - 11p	11p - 7a (of the following morning)
Monday	86	56	30
Tuesday	76	42	34
Wednesday	68	45	23
Thursday	85	46	39
Friday	107	47	60
Saturday	139	70	69
Sunday	93	69	24
<b>Totals</b>	<b>654</b>	<b>375</b>	<b>279</b>
		<b>57.3%</b>	<b>42.7%</b>

**VALID**

	Total	7a - 11p	11p - 7a (of the following morning)
Monday	22	15	7
Tuesday	16	14	2
Wednesday	10	8	2
Thursday	23	12	11
Friday	29	7	22
Saturday	29	12	17
Sunday	23	19	4
<b>Totals</b>	<b>152</b>	<b>87</b>	<b>65</b>
		<b>57.2%</b>	<b>42.8%</b>

**NON-VALID**

	Total	7a - 11p	11p - 7a (of the following morning)
Monday	64	41	23
Tuesday	60	28	32
Wednesday	58	37	21
Thursday	62	34	28
Friday	78	40	38
Saturday	110	58	52
Sunday	70	50	20
<b>Totals</b>	<b>502</b>	<b>288</b>	<b>214</b>
		<b>57.4%</b>	<b>42.6%</b>

**Call Time of Day - Residential vs Commercial**

	Total	7a - 11p	11p - 7a (of the following morning)
RESIDENTIAL	457	247	210
COMMERCIAL	130	76	54
OTHER	67	52	15
<b>Totals</b>	<b>654</b>	<b>375</b>	<b>279</b>
		<b>57.3%</b>	<b>42.7%</b>

**Breakdown of Calls with Identified Complainants and with Anonymous Complainants**

	Total Cases	Valid Cases	Non-valid Cases
<b>Totals</b>	<b>654</b>	<b>152</b>	<b>502</b>
Anonymous Complainant made	388	80	308
Contact Information Provided	39	11	28
Internal	221	55	166
	6	6	0
		<b>23.2%</b>	<b>76.8%</b>
		<b>12.2%</b>	<b>47.1%</b>
		<b>1.7%</b>	<b>4.3%</b>
		<b>8.4%</b>	<b>25.4%</b>
		<b>0.9%</b>	<b>0.0%</b>

**ATTACHMENT B**

**COMMERCIAL NOISE CASES**

Noise Data 07/01/2013 - 09/30/2013 (Q3-2013)

**Total Number of Noise Complaint Calls Received**

Total Cases (Valid and Non-valid only)	Less Code or PD Initiated (Proactive)	Complaint Calls Received
130	3	127

**Disposition of All Noise Cases**

Type	#	%
Valid Cases	29	22.3%
Non-valid Cases	101	77.7%
<b>Total Valid and Non-Valid Cases =</b>	<b>130</b>	<b>100%</b>

**Valid Violation Breakdown**

Verbal	3	10.3%
Written Warning	19	65.5%
Violation	7	24.1%
<b>Total Valid Cases</b>	<b>29</b>	<b>100%</b>

**Noise Cases by Type of Establishment**

Location Type	Totals	% of Commercial Cases (By Establishment Type)	Valid	Non-Valid
BAR	19	14.6%	4	15
CLUBS	7	5.4%	1	6
CONDO-HOTEL	42	32.3%	5	37
RESTAURANT	36	27.7%	7	29
RETAIL	5	3.8%	3	2
HOTEL	21	16.2%	9	12
<b>Total</b>	<b>130</b>	<b>100%</b>	<b>29</b>	<b>101</b>

**Noise Cases by Noise Type**

Noise Type	Totals	% of Commercial Cases (By Type of Noise)	Valid	Non-valid
LOUD MUSIC	98	75.4%	19	79
LIVE ENTERTAINMENT	1	0.8%	1	0
BARKING DOG	0	0.0%	0	0
CROWD NOISE	0	0.0%	0	0
CONSTRUCTION	31	23.8%	9	22
OTHER	0	0.0%	0	0
HONKING CARS/ALARMS	0	0.0%	0	0
<b>Totals</b>	<b>130</b>	<b>100%</b>	<b>29</b>	<b>101</b>

**Time of Day / Day of Week of Call**

ALL CASES (VALID AND NON-VALID)

	Total	7a - 11p		11p - 7a (of the following morning)		
Monday	16	12.3%	7	5.4%	9	6.9%
Tuesday	13	10.0%	9	6.9%	4	3.1%
Wednesday	12	9.2%	8	6.2%	4	3.1%
Thursday	14	10.8%	8	6.2%	6	4.6%
Friday	29	22.3%	14	10.8%	15	11.5%
Saturday	26	20.0%	15	11.5%	11	8.5%
Sunday	20	15.4%	15	11.5%	5	3.8%
<b>Totals</b>	<b>130</b>	<b>100.0%</b>	<b>76</b>	<b>58.5%</b>	<b>54</b>	<b>41.5%</b>

**VALID**

	Total	7a - 11p		11p - 7a (of the following morning)		
Monday	1	3.4%	0	0.0%	1	3.4%
Tuesday	2	6.9%	2	6.9%	0	0.0%
Wednesday	3	10.3%	3	10.3%	0	0.0%
Thursday	6	20.7%	3	10.3%	3	10.3%
Friday	6	20.7%	2	6.9%	4	13.8%
Saturday	4	13.8%	3	10.3%	1	3.4%
Sunday	7	24.1%	6	20.7%	1	3.4%
<b>Totals</b>	<b>29</b>	<b>100.0%</b>	<b>19</b>	<b>66%</b>	<b>10</b>	<b>34%</b>

**NON-VALID**

	Total	7a - 11p		11p - 7a (of the following morning)		
Monday	15	14.9%	7	6.9%	8	7.9%
Tuesday	11	10.9%	7	6.9%	4	4.0%
Wednesday	9	8.9%	5	5.0%	4	4.0%
Thursday	8	7.9%	5	5.0%	3	3.0%
Friday	23	22.8%	12	11.9%	11	10.9%
Saturday	22	21.8%	12	11.9%	10	9.9%
Sunday	13	12.9%	9	8.9%	4	4.0%
<b>Totals</b>	<b>101</b>	<b>100%</b>	<b>57</b>	<b>56%</b>	<b>44</b>	<b>44%</b>

**Breakdown of Calls with Identified Complainants and with Anonymous Complainants**

	Total Cases	Valid Cases	Non-valid Cases
<b>Total Complainants</b>	<b>130</b>	<b>100%</b>	<b>101</b>
Anonymous Complainant	74	56.9%	62
Anonymous with Contact made	6	4.6%	6
Contact Information Provided	47	36.2%	33
Internal (Proactive)	3	2.3%	0



**ATTACHMENT C**

**Information on Disposition of Cases by Special Master and by Judicial (Q3-2013)**

Date of Violation	Request Filed	Special Master Case Number	Code Case Number	Address	Name	Status
03/27/2013	04/05/2013	JC13000291	CE13007536	4385 COLLINS AV	RYDER PROPERTIES LLC	SM 09/26/2013 - Case not proven by clear and convincing evidence to be valid. Case Dismissed.
04/07/2013	04/16/2013	JC13000318	CE13007917	1545 COLLINS AV	JAMES ROYAL PALM HOTEL	SM 08/29/2013 - Case removed from agenda, withdrawn by attorney. First Offense, fine of \$250 is paid.
05/18/2013	05/20/2013	JC13000388	CE13009225	5001 COLLINS AV	ROBERT BRIANSTANG	SM 07/18/2013 - Adjudication of noncompliance. Petitioner's Second Offense. Petitioner is to Cease and Desist. Fine of \$1,000 to be paid by September 30, 2013.
05/18/2013	05/23/2013	JC13000389	CE13009250	1685 COLLINS AV	DELANO HOTEL	SM 07/18/2013 - Guilty of a First Offense - Fine of \$250 shall be paid by September 18, 2013
06/08/2013	06/14/2013	JC13000394	CE13009973	323 23RD STREET	ACQUA LLC dba TREEHOUSE	SM 07/18/2013 - Guilty of a the Written Warning and Not Guilty of the First Offense.
07/20/2013	07/29/2013	JC13000483	CE13011484	1701 COLLINS AV	1701 COLLINS (MIAMI) OPERATING COMPANY	SM 11/07/2013
08/07/2013	08/15/2013	JC13000553	CE13012180	1427 WEST AV	CULINARY ARTS CATERING, LLC D/B/A BARTON G	SM 11/07/2013 - City Bill issued CB#00043020 / CUST# 021184 Customer paid full amount at Finance Department with Check# 25814. Still on calendar for SM.
09/01/2013	09/09/2013	JC13000585	CE13013056	835 N SHORE DR	IVAN DEL RIO & ELIGIO MOYA	SM 10/10/2013 - Guilty of a First Offense - Fine of \$250 shall be paid by December 13, 2013.
09/24/2013	10/8/13	JC14000055	CE13013792	1140 ALTON RD	FRIENDS OF LUBAVITCH OF FLA INC	SM 11/7/2013