



MINUTES
April 11, 2023

BOARD OF APPEALS HEARING
9:00 a.m.
City Council Chambers
311 Vernon Street
Roseville, CA

1. CALL TO ORDER

Chairperson Bruce Hagler called the meeting to order at 9:00 a.m. in the City Council Chambers.

2. ROLL CALL (SILENT)

The following Hearing Panel members were present:

Pete Constant
Bruce Hagler
Arthur Pauly, Jr.
Steve Miller (Observing)

The following Staff members were present:

My Tien Doan, Deputy City Attorney
Lynda Risucci, Legal Clerk

3. IDENTIFICATION OF CHAIR

Chairperson for the April 11, 2023 hearing was Bruce Hagler.

4. PLEDGE OF ALLEGIANCE

Chairperson Bruce Hagler led the audience in the Pledge of Allegiance.

5. PUBLIC COMMENT

No one from the public offered any comments.

6. SWEAR IN

Chairperson Bruce Hagler administered the Oath to those in attendance who would be offering testimony at the hearing.

7. MATTERS TO BE HEARD

7.1. Citation No.: 20861 – 2310 Pleasant Grove Blvd., Suite 160

Appellant: Josh Bredemeier, Owner of F45 Gym

- Roseville Municipal Code Section 9.24.150(A), Noise Disturbances

A. Staff Report:

Code Enforcement Officer Yuri Zinzun offered testimony in regard to the staff materials in Exhibit A.

Per RMC Section 2.50.060(D), the Staff Report was submitted to the Roseville City Attorney's Office prior to the hearing and was provided to the Appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report including case history and narrative

Code Enforcement Officer Yuri Zinzun advised the Board that there have been a total of twenty-nine (29) inspections regarding a noise complaint at the F45 studio, and there were only a couple of instances where the noise was confirmed. There were no confirmed violations in the remaining inspections leading up to the issuance of this Citation, nor afterwards. Ms. Zinzun addressed the noise issue with the studio manager and the business owner, Josh Bredemeier, on several occasions and he advised was going to do his best to address this matter with his coaches.

Complainant's Statement:

Complainant Christopher Hur, 3008 Village Plaza Drive, presented Exhibit B and offered testimony in support of the complaint. Mr. Hur stated that the bass emanating from the F45 studio can be felt and heard throughout his entire residence during the morning, afternoon and evening classes. He also mentioned that the opening of the

back door of the studio during classes increases the noise that travels to his residence. Mr. Hur believes the noise issues can easily be addressed and fixed by keeping the back door of the studio closed during classes and modifying the sound system so that the bass can be turned down.

Exhibit B:

- PowerPoint presentation containing video evidence that was played on the Council Chambers media screen; and
- Complainant's Noise Observation Diary.

B. Appellant's Response:

Exhibit C:

(Appellant's Exhibit C was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's Office on February 22, 2023.

Appellant Josh Bredemeier, 2310 Pleasant Grove Boulevard, Suite 160, offered testimony in support of the appeal. As to the 5:00 a.m. and 6:00 a.m. classes, when Mr. Bredemeier was advised of the noise complaints, he did make policy changes to ensure that all bass from the sound system was removed for these specific classes and his instructors have been advised to keep the back door shut during the morning classes.

Mr. Bredemeier also advised the Board that he was unaware of any issues with noise complaints during the afternoon and evening classes.

C. Rebuttals and Panel Questions:

Code Enforcement Officer Yuri Zinzun offered rebuttal testimony and answered panel questions. Regarding the afternoon and evening classes, Code Enforcement Officers were unable to confirm any excessive noise emanating from the F45 studio during these time periods.

No rebuttal testimony was offered by Complainant Christopher Hur nor Appellant Josh Bredemeier.

Code Enforcement Officer Yuri Zinzun answered panel questions.

Appellant Josh Bredemeier answered panel questions.

Complainant Christopher Hur answered panel questions.

D. Panel Discussion and Decision:

The panel discussed the evidence and testimony presented for Administrative Citation No. 20861.

Regarding Roseville Municipal Code Section 9.24.150(A), Noise Disturbances, a motion was made by Arthur Pauly, Jr. and seconded by Pete Constant to grant the appeal and dismiss the citation because the City/Complainant did not prove by a preponderance of the evidence that the violation occurred.

The motion passed with the following vote:

AYES: Pete Constant, Bruce Hagler, Arthur Pauly, Jr.

NOES: None

Chairperson Bruce Hagler signed the decision form, asked the Appellant to see staff for the paperwork, and informed the parties that they may file a petition for review with the Superior Court in Placer County within 20 days.

7.2. Citation No. 5618 – 218 Donner Avenue

Appellant: Carl Haupt

- Roseville Municipal Code Section 7.25.010, Animal Noise

A. Staff Report:

Animal Control Officer (ACO) Nicole Sammons gave testimony regarding the complaint against Carl Haupt and the dog living at 218 Donner Avenue and read her Staff Report (Exhibit A). ACO Nicole Sammons informed the Board that the Animal Noise violations are based on the complaint of a third party and were not independently observed by Animal Control.

Per RMC Section 2.50.060(D), the Staff Report was submitted to the Roseville City Attorney's Office prior to the hearing and was provided to the Appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report including case history and narrative

Complainant's Statement:

Complainant Christine Spurlock, 106 Ben Ezra Avenue, offered her testimony in support of the complaint stating that the dog barks constantly between the hours of 7:00 a.m. and noon, and off and on incessantly throughout the day for at least twenty plus minutes at a time. She did try to address the issue with the Appellant without success.

B. Appellant's Response:

Exhibit C:

(Appellant's Exhibit C was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's Office on March 6, 2023.

Appellant Carl Haupt, 218 Donner Avenue, presented Exhibit D and offered testimony in support of the appeal. Mr. Haupt does not deny that his dog barks intermittently. Mr. Haupt does dispute the dates, times and duration of the barking that the Complainants provided in their Animal Noise Affidavit. Mr. Haupt reviewed the time logs captured by his motion camera that do not coincide with Complainant's Animal Noise Affidavit.

Exhibit D:

- Map of Neighborhood; and
- Time Log of Feit Floodlight Motion Camera with photographs in relation to dates and times indicated in Complainant's Animal Noise Affidavit.

C. Rebuttals and Panel Questions:

No rebuttal testimony was offered by ACO Nicole Sammons.

Complainant Andrew Spurlock offered rebuttal testimony.

Appellant Carl Haupt offered rebuttal testimony and answered panel questions.

Complainants Andrew Spurlock and Christine Spurlock answered panel questions.

D. Panel Discussion and Decision:

The panel discussed the evidence and testimony presented for Administrative Citation No 5618.

Regarding Roseville Municipal Code Section 7.25.010, Animal Noise, a motion was made by Arthur Pauly, Jr. and seconded by Pete Constant to grant the appeal and dismiss the citation because the City/Complainant did not prove by a preponderance of the evidence that the violation occurred.

The motion passed with the following vote:

AYES: Pete Constant, Bruce Hagler, Arthur Pauly, Jr.

NOES: None

Chairperson Bruce Hagler signed the decision form, asked the Appellant to see staff for the paperwork, and informed the parties that they may file a petition for review with the Superior Court in Placer County within 20 days.

7.3 Citation No. 5612 – 1444 New England Drive

Appellant: Elysha Richards

- Roseville Municipal Code Section 7.25.010, Animal Noise, One Count First Offense
- Roseville Municipal Code Section 7.25.010, Animal Noise, Two Counts, Second Offense
- Roseville Municipal Code Section 7.16.010, Failure to License, One Count, First Offense
- Roseville Municipal Code Section 7.16.010, Failure to License, One Count, Second Offense

A. Staff Report:

ACO Nicole Sammons gave testimony in regard to the complaint against Elysha Richards and the dogs living at 1444 New England Drive and read her Staff Report (Exhibit A). ACO Nicole Sammons informed the Board that the Animal Noise violations are based on the complaint of a third party and were not independently observed by Animal Control.

Per RMC Section 2.50.060(D), the Staff Report was submitted to the Roseville City Attorney's Office prior to the hearing and was provided to the Appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report including case history and narrative

Complainants' Statement:

Complainants Scott and Angela Tabarango, 204 Chesapeake Drive, offered their testimony in support of the noise complaint stating that the incessant dog barking has been an ongoing issue since 2016, and this is the second time they have come before the Board of Appeals for a noise complaint against Appellant Elysha Richards. Complainants presented Exhibit B for the panel's consideration and asked that video evidence, submitted as Exhibit B, be played for the panel.

Exhibit B:

- Complainant's Exhibit Packet:
 - Exhibits A–B: Correspondence from May 03, 2016 Citation No: 14646;
 - Exhibit C-D: Correspondence and photographs regarding October 15, 2017 Complaint to Animal Control;
 - Exhibit E: Correspondence regarding Citation Nos.: 20398 & 5612 issued October 25, 2022 and February 8, 2023, respectively;
 - Exhibit F: Photograph of dog from November 17, 2022;
 - Exhibit G: Witness Statements of Virginia Botica (no address provided) and Rori Clemmons (no address provided) regarding animal noise complaints; and,
- USB containing various audio clips of the subject dogs barking.

B. Appellant's Response:

Exhibit C:

(Appellant's Exhibit C was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's Office on March 9, 2023

Elysha Richards, 1444 New England Drive, gave testimony in support of the appeal. Ms. Richards stated she only owns one dog. The other two dogs being cited belong to her roommates. She stated the dogs will bark intermittently, but usually only in response to a cat on the fence or possums that come by her fence.

C. Rebuttals and Panel Questions:

Complainants Scott and Angela Tabarango offered rebuttal testimony and answered panel questions.

Appellant Elysha Richards offered rebuttal testimony and answered panel questions.

ACO Nicole Sammons answered panel questions.

D. Panel Discussion and Decision:

The panel discussed the evidence and testimony presented for Administrative Citation No. 5612.

Regarding the violation of Roseville Municipal Code Section 7.25.010, Animal Noise, One Count, First Offense a motion was made by Pete Constant and seconded by Arthur Pauly, Jr. to deny the appeal and uphold the citation because the City/Complainants proved by a preponderance of the evidence that the violation occurred and that the appellant is the responsible party.

The motion passed with the following vote:

AYES: Pete Constant, Bruce Hagler, Arthur Pauly, Jr.

NOES: None

Regarding the violation of Roseville Municipal Code Section 7.25.010, Animal Noise, Two Counts, Second Offense, a motion was made by Pete Constant and seconded by Arthur Pauly, Jr. to deny the appeal and uphold the citation because the City/Complainant proved by a preponderance of the evidence that the violation(s) occurred and that the appellant is the responsible party.

The motion passed with the following vote:

AYES: Pete Constant, Bruce Hagler, Arthur Pauly, Jr.

NOES: None

Regarding the violation of Roseville Municipal Code Section 7.16.010, Failure to License, One Count, First Offense, a motion was made by Pete Constant and seconded by Arthur Pauly, Jr. to deny the appeal and uphold the citation because the City/Complainant proved by a preponderance of the evidence that the violation(s) occurred and that the appellant is the responsible party.

The motion passed with the following vote:

AYES: Pete Constant, Bruce Hagler, Arthur Pauly, Jr.

NOES: None

Regarding the violation of Roseville Municipal Code Section 7.16.010, Failure to License, One Count, Second Offense, a motion was made by Pete Constant and seconded by Arthur Pauly, Jr. to deny the appeal and uphold the citation because the City/Complainant proved by a preponderance of the evidence that the violation(s) occurred and that the appellant is the responsible party.

The motion passed with the following vote:

AYES: Pete Constant, Bruce Hagler, Arthur Pauly, Jr.

NOES: None

Chairperson Bruce Hagler signed the decision form, asked the Appellant to see staff for the paperwork, and informed the parties that they may file a petition for review with the Superior Court in Placer County within 20 days.

8. ADJOURNMENT

A motion was made by Arthur Pauly, Jr. and seconded by Pete Constant to adjourn the hearing.

AYES: Pete Constant, Bruce Hagler, Arthur Pauly, Jr.

NOES: None

Chairperson Bruce Hagler adjourned the April 11, 2023 hearing at 11:06 a.m.

Additional information and/or detail of the hearing may be obtained by requesting a video recording of the hearing from the City Attorney's Office.

Lynda Risucci
Legal Clerk