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TO: Dryden Town Board

FROM: Khandikile Mvunga Sokoni

CC: Peter J. Walsh, Esq.

DATE: November 5, 2020

RE: Noise Ordinance Adoption

Please find attached two versions of a noise ordinance for your consideration. You will recall that at the October 15, Town Board meeting there was circulated a proposed noise ordinance for adoption. It was my understanding that it was modeled on the Town of Ithaca Noise Ordinance. Following some discussion I promised the Board two versions of a noise ordinance for your consideration.

At the October meeting I had cautioned that the excerpt before you which was not the full Town of Ithaca Noise Ordinance was limited to only parties, and contained references to a permitting process that was not included in what was before you. The two draft versions I am forwarding for your consideration are:

1. Version #1: A more comprehensive noise ordinance which regulates not only parties and gatherings, but also other unreasonable noise. The benefit of this version is if the Town wishes to address other kinds of noise that may not necessarily be associated with a party or gathering. E.g. a residential property owner who brings trucks onto his property to deliver fill if this is continuous and done at unreasonably early or late hours; an individual who may not be hosting a party that is disruptive to the neighbors but who nonetheless is generating unreasonable noise but playing amplified music too loudly or playing other electric instruments late into the night in a residential neighborhood.
2. Version #2: This version is limited to parties, events and gatherings, except it has been modified to exclude reference to a permitting system since Dryden does not presently have in place a noise permit system.

Please note that the Dryden Zoning Law regulates noise from commercial activity. It is my

understanding that the Town Board is seeking to fill a void that exists with regard to noise regulation in residential neighborhoods.

For reference purposes I am attaching copies of three samples: Town of Ithaca Noise Ordinance; City of Ithaca Noise Ordinance and City of Binghamton Noise Ordinance. You will see that they are all more broad and comprehensive each with a detailed definition section. Here, the only term that has been defined for you is “unreasonable noise”.

What Are the Legal Standards for a Noise Ordinance under New York Law?

Towns are authorized by NY Town Law Section 130(11) to regulate noise by virtue of the provision that allows a Town to enact laws regarding: "11. Peace, good order and safety. Preserving the public peace and good order; preventing and suppressing vice, immorality, disorderly and gambling houses and houses of ill-fame, riots and tumultuous assemblages, unnecessary crowds upon the streets, or in doorways or stairways adjacent thereto, or loitering about such places, preventing unreasonably loud or disturbing noises, determined by the board to be of a character, intensity or duration as to be detrimental to the peace, welfare or good order of the people, and preventing all disorderly, noisy, riotous or tumultuous conduct within the town, disturbing the peace and quiet of the town or any meeting or assembly therein".

In measuring whether a noise ordinance is reasonable (i.e. whether or not it is unconstitutionally vague) the courts look to whether:

- A. The law is sufficiently definite to give a person of ordinary intelligence notice that his/her conduct is forbidden, and
- B. The law provides officials with clear standards for enforcement as to avoid resolution on an ad hoc and subjective basis.

New York State does not have a single source or limit regarding acceptable noise levels. The State's noise regulations are numerous and contextual. E.g. New York Penal Law Section 240.20(2) prohibits unreasonable noise aimed at causing public annoyance, inconvenience or alarm. That statute provides "A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof: He makes unreasonable noise...".

A number of New York State laws and regulations relate to environmental noise control including, for example, laws pertaining to the noise of snowmobiles, pleasure vessels, subways, motor vehicles, noise in workplaces, noise-insulation of certain public schools, disturbing noise in and around premises licensed to sell alcoholic beverages, workers' compensation laws relating to compensation for on-the-job hearing loss, noise-related disorderly conduct laws and Sunday laws, and provisions of the Environmental Conservation Law relating to mandated determinations of whether government actions may have a significant effect on the environment. All of these regulations have different decibel level settings based on what is being proscribed.

New York Vehicle and Traffic Law regulations set noise levels for vehicles on the highway at 90 decibels in line with Federal Highway Administration guidelines. This may be appropriate on the highway when measuring the permissible noise levels for trucks, while this may not be an acceptable noise level in a quiet rural residential setting.