

**THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:

Wet Dog, LLC
t/a Wet Dog Tavern

Applicant for a New
Retailer's Class CT

at premises
2100 Vermont Avenue, N.W.
Washington, D.C. 20001

Case No. 14-PRO-00073
License No. ABRA-096176
Order No. 2015-045

Wet Dog, LLC, t/a Wet Dog Tavern (Applicant)

James Turner, Chairperson, Advisory Neighborhood Commission (ANC) 1B

Tucker Gallagher, on behalf of A Group of Five or More Individuals

BEFORE: Ruthanne Miller, Chairperson
Nick Alberti, Member
Donald Brooks, Member
Herman Jones, Member
Mike Silverstein, Member
Hector Rodriguez, Member
James Short, Member

**ORDER ON SETTLEMENT AGREEMENT AND WITHDRAWAL OF
PROTESTS OF ANC 1B AND A GROUP OF FIVE OR MORE INDIVIDUALS**

The Application filed by Wet Dog, LLC, t/a Wet Dog Tavern, for a new Retailer's Class CT License, having been protested, came before the Alcoholic Beverage Control Board (Board) for a Roll Call Hearing on October 14, 2014, and a Protest Status Hearing on November 5, 2014, in accordance with D.C. Official Code § 25-601 (2001).

The official records of the Board reflect that the Applicant, ANC 1B, and the Group of Five or More Individuals have entered into a Settlement Agreement (Agreement), dated January 20, 2015, that governs the operation of the Applicant's establishment.

The Agreement has been reduced to writing and has been properly executed and filed with the Board. The Applicant; Chairperson James Turner and Commissioner Ellen Sullivan, on behalf of ANC 1B; and Tucker Gallagher, on behalf of the Group of Five or More Individuals; are signatories to the Agreement.

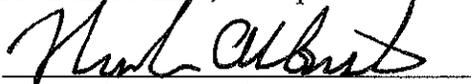
This Agreement constitutes a withdrawal of the Protests filed by ANC 1B and the Group of Five or More Individuals of this Application.

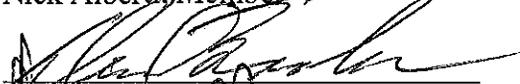
Accordingly, it is this 4th day of February, 2015, **ORDERED** that:

1. The Application filed by Wet Dog, LLC, t/a Wet Dog Tavern, for a new Retailer's Class CT License, located at 2100 Vermont Avenue, N.W., Washington, D.C., is **GRANTED**;
2. The Protests of ANC 1B and the Group of Five or More Individuals in this matter are hereby **WITHDRAWN**;
3. The above-referenced Settlement Agreement submitted by the Parties to govern the operations of the Applicant's establishment is **APPROVED** and **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Applicant, ANC 1B, and Tucker Gallagher, on behalf of the Group of Five or More Individuals.

District of Columbia
Alcoholic Beverage Control Board

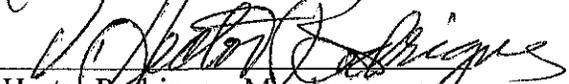

Ruthanne Miller, Chairperson


Nick Alberti, Member


Ronald Brooks, Member


Herman Jones, Member


Mike Silverstein, Member


Hector Rodriguez, Member


James Short, Member

Pursuant to D.C. Official Code § 25-433, any party adversely affected may file a Motion for Reconsideration of this decision within ten (10) days of service of this Order with the Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., Suite 400S, Washington, DC 20009.

Also, pursuant to section 11 of the District of Columbia Administrative Procedure Act, Pub. L. 90-614, 82 Stat. 1209, D.C. Official Code §2-510 (2001), and Rule 15 of the District of Columbia Court of Appeals, any party adversely affected has the right to appeal this Order by filing a petition for review, within thirty (30) days of the date of service of this Order, with the District of Columbia Court of Appeals, 430 E Street, N.W., Washington, D.C. 20001; (202/879-1010). However, the timely filing of a Motion for Reconsideration pursuant to 23 DCMR §1719.1 (2008) stays the time for filing a petition for review in the District of Columbia Court of Appeals until the Board rules on the motion. See D.C. App. Rule 15(b) (2004).

**Settlement Agreement Concerning Issuance of License
To Wet Dog, LLC**

THIS AGREEMENT made and entered into this _____ day of _____, 2015 by and between Wet Dog, LLC (the "Applicant") on the one hand, and ANC 1B and Vincent "Tucker" Gallagher, on behalf of five or more neighbors, on the other hand. ANC 1B and Gallagher may hereinafter be referred to collectively as the "Protestants".

WHEREAS, Applicant has filed Application No. 96176 with the District of Columbia Alcoholic Beverage Control Board ("ABC Board") for a new class CT01 license for premises to be known as Wet Dog Tavern, and to be located at 2100 Vermont Avenue NW, Washington, D.C (hereinafter the "Premises"); and

WHEREAS, Protestant has filed before the ABC Board a protest opposing the granting of this license; and

WHEREAS, in recognition of the ABC Board's policy of encouraging parties to a contested proceeding to settle their differences by reaching settlement agreements, by their signatures below, the parties hereto desire to enter into a settlement agreement whereby (1) Applicant will agree to adopt certain measures to address Protestants' concerns and to include this Agreement as a formal condition of its Application, and (2) Protestant will agree to the issuance of the new license and withdraw its protest provided that this Agreement is incorporated into the ABC Board's order issuing the license, which license is conditioned upon compliance with this agreement; and

WHEREAS, Applicant has recently taken or intends to take certain measures designed to ameliorate Protestant's concerns.

THEREFORE, in consideration of the mutual covenants and undertakings memorialized herein, the Applicant and Protestants hereby agree as follows:

1. **NOISE.** Applicant acknowledges familiarity with and agrees to comply with the noise-control provisions required by District of Columbia law and regulations. In addition, Applicant agrees to comply with the following:

A. Summer Garden Backyard. So long as the improvements in Section 3(E) below have not been completed there will be no live musical performances of any type or DJs at any time in the Summer Garden Roof deck or the Summer Garden Backyard and only ambient, background recorded music will be allowed in Summer Garden Roof deck and Summer Garden Backyard. The rear door (if any) will remain closed when

amplified music is being played inside after the closing of the Summer Garden Backyard.

B. Without a roof over the backyard and roof deck: So long as the improvements in Section 3(E), below have not been completed there will be no live musical performances of any type or DJs at any time in the Summer Garden Roof deck or the Summer Garden Backyard. After completing the structure the establishment will have the following hours for live music and DJs in the Summer Garden Backyard: Sunday to Thursday 4:00 PM to 11:00 PM, Friday 4:00 PM to 12:00 AM, Saturday and Eve of Holidays (as defined below) 12:00 PM to 12:00 AM.

C. Summer Garden Roof Deck: Only ambient, background recorded music will be allowed in Summer Garden Roof deck.

D. Sidewalk Café Area: No speakers will be present on the Sidewalk Cafe, but the windows may be opened to allow patrons to hear the recorded music played inside the establishment.

E. Other Noise Provisions: Applicant will regularly monitor sound to ensure there is no impact on nearby residents. The Applicant agrees to restrict all events to those run by the restaurant and will not contract the restaurant for any special events to be operated by an outside contractor. Applicant agrees to implement sound suppression measures that will mitigate noise from the tavern, summer garden, roof deck, and sidewalk cafe that may be heard in surrounding resident's homes, and will use decibel-metering systems to monitor noise levels.

2. SAFETY & SECURITY. Applicant agrees to file a security plan with ABRA. Applicant shall also engage a professional security company to provide, at minimum, four security cameras recording the entrances, side, and rear of the establishment, and shall ensure that the recordings from said cameras are available to the Metropolitan Police Department and ABRA for a minimum of 30 days following the date of recording.

3. HOURS OF OPERATION:

A. Indoor: Applicant's interior hours are not limited by this Agreement.

B. Summer Garden Roof deck (without sound mitigation modifications)

Day	Hours of Alcoholic Beverage Service	Hours of Operation
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Monday	11:00 AM to 10:30 PM	11:00 AM to 10:30 PM
Tuesday	11:00 AM to 10:30 PM	11:00 AM to 10:30 PM
Wednesday	11:00 AM to 10:30 PM	11:00 AM to 10:30 PM
Thursday	11:00 AM to 10:30 PM	11:00 AM to 10:30 PM
Friday	11:00 AM to 12:00 AM	11:00 AM to 12:00 AM
Saturday	11:00 AM to 12:00 AM	11:00 AM to 12:00 AM
Sunday	11:00 AM to 10:30 PM	11:00 AM to 10:30 PM

C. Summer Garden Backyard (without sound mitigation modifications)

Day	Hours of Alcoholic Beverage Service	Hours of Operation
Monday	11:00 AM to 10:30 PM	11:00 AM to 10:30 PM
Tuesday	11:00 AM to 10:30 PM	11:00 AM to 10:30 PM
Wednesday	11:00 AM to 10:30 PM	11:00 AM to 10:30 PM
Thursday	11:00 AM to 10:30 PM	11:00 AM to 10:30 PM
Friday	11:00 AM to 12:00 AM	11:00 AM to 12:00 AM
Saturday	11:00 AM to 12:00 AM	11:00 AM to 12:00 AM
Sunday	11:00 AM to 10:30 PM	11:00 AM to 10:30 PM

D. Sidewalk Café *

Day	Hours of Alcoholic Beverage Service	Hours of Operation
Monday	11:00 AM to 11:00 PM	11:00 AM to 11:00 PM
Tuesday	11:00 AM to 11:00 PM	11:00 AM to 11:00 PM
Wednesday	11:00 AM to 11:00 PM	11:00 AM to 11:00 PM
Thursday	11:00 AM to 11:00 PM	11:00 AM to 11:00 PM
Friday	11:00 AM to 12:00 AM	11:00 AM to 12:00 AM
Saturday	11:00 AM to 12:00 AM	11:00 AM to 12:00 AM

Sunday	11:00 AM to 11:00 PM	11:00 AM to 11:00 PM
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* subject to application to DDOT for use of public space.

E. It is contemplated that Applicant will make certain improvements to the outside areas of the Premises designed to mitigate noise. Specifically, it is contemplated that the Applicant shall construct, abutting the northern boundary of the Summer Garden Backyard, a cantilevered wall and partial covering, which shall be as depicted on the drawing attached hereto on Exhibit A. The wall shall be constructed of brick, masonry, half-inch thick exterior grade plywood, nominal 18 gauge sheet metal or other material which shall provide a minimum face weight of 2 pounds per square foot. The wall shall be solid with no gaps at the bottom or between panels. Applicant shall have no limitation on operating backyard hours for the Summer Garden Backyard, if sound mitigation modifications are made to such area, as provided herein.

F. Provided that Applicant makes similar sound mitigation modifications to the Summer Garden Roof, Applicant shall have no limitations on operating hours for the Summer Garden Roof.

G. Notwithstanding anything contained here to the contrary, service by wait staff shall cease in both the Summer Garden Rooftop and Summer Garden Backyard no later than 1:00 AM each night.

H. To the extent the hours of operation are limited in this Agreement, the hours for Friday and Saturday nights listed above shall apply to all District of Columbia and Federal holidays as listed in D.C. Code § 25-723(c)(1).

I. Applicant agrees that the establishment will be shut down and completely vacated, except for routine maintenance and clean-up by closing time each night. Summer Garden and Sidewalk Cafe shall be used for ingress and egress by patrons to the indoor portion of the establishment during operating hours for indoor portion of the establishment. Applicant agrees that there will be no after-hours activities in the establishment.

J. If Applicant shall construct any bar outside the boundaries of the building, service from such bar shall cease no later than 1:00 AM each night.

4. TRASH/GARBAGE/RODENTS. Applicant shall maintain trash/garbage removal service at least three times weekly and see that the trash and dumpster area remains clean. Trash dumpster(s) shall be properly maintained so that they close properly and do not leak. Applicant shall deposit trash and garbage only in rodent-resistant dumpsters and shall see that dumpster covers fit properly and remain fully closed except when trash or garbage is being added or removed. Applicant is strongly encouraged to use a trash compactor. Applicant will work towards solutions removing dumpsters and grease barrels from public space on site and collectively in surrounding block. Applicant will make every reasonable effort to eliminate accessible food sources for rodents and eliminate the rat population. Applicant will have professional extermination services or provide them as needed. Applicant will provide for the proper removal of grease and fatty oils from the establishment and will not deposit grease or fatty oils in the dumpster nor dispose of them down the sink. Applicant shall request that its trash and recycling contractors pick up the trash and materials no earlier than 7:00AM and no later than 5:00PM. No recyclables will be dumped after 9:00PM. The Licensee shall provide for the regular maintenance of the site during months when the Establishment is not in operation or is not using all outdoor spaces, including but not limited to snow and trash removal, landscaping, and removal of graffiti.

5. CAPACITY. Applicant shall at all times adhere to its occupancy limit as specified in its Certificate of Occupancy Permit, which shall remain posted in public view at all times. Applicant shall post a conspicuous sign at each exit advising patrons of the residential neighborhood and the necessity of quiet departure.

6. PARKING. Applicant will encourage transit use, and will direct patrons to use nearby public parking facilities rather than parking on residential streets.

7. SMOKING. Licensee intends to maintain a primarily smoke free outdoor space, but reserves the right to designate a smoking area.

8. NOTICE AND OPPORTUNITY TO CURE. In the event that any of the parties are in breach of this Agreement, each such party shall be entitled to reasonable notice and opportunity to cure, as a condition precedent to seeking enforcement of the Agreement. Unless the breach is of an emergency nature or is a repetition of a prior breach, reasonable notice and opportunity shall provide for a cure within thirty (30) days of the date of such notice. If Applicant or the licensee fails to cure within the thirty day period (or, with respect to a breach which reasonably requires more than thirty days to cure, fails to commence cure of such breach and diligently pursues such cure) such failure shall constitute a cause for

filing a complaint with ABRA. Unless otherwise noted above, any notices required to be made under this Agreement shall be in writing and mailed via certified mail, return receipt requested, postage prepaid, or hand delivered, to the other parties to this Agreement at the following addresses. Notice shall be deemed given as of the time of receipt or refusal of receipt.

If to Applicant: **Wet Dog, LLC**
Attn: Frank Economides, Managing Member
2100 Vermont Avenue NW
Washington, D.C.
Phone: (202) 333-1100
economidesdev@aol.com

With a copy to: **Andrew J. Kline, Esq.**
The Veritas Law Firm
1225 19th Street NW, Suite 320
Washington, DC 20036
akline@veritaslla.com

If to Protestants: **ANC 1B**
Advisory Neighborhood Commission 1B
Attn: Ellen Sullivan
Frank D. Reeves Municipal Center
2000 14th Street NW Suite 100B
Washington, DC 20009
202-481-3462
1b02@anc.dc.gov

If to Protestants: **Gallagher Neighborhood Group**
Vincent (Tucker) Gallagher
2120 Vermont Ave #621 NW
Washington DC 20001
202-249-2299
tuckergallagher@gmail.com

WHEREFORE, by the signing of the representatives of Applicant and Protestants, Applicant hereby agrees to aforementioned covenants and Protestants agrees to the issuance of the Class CT license to Applicant, and withdraws its protest, provided that this agreement is incorporated into the ABC Board's order issuing a Class CT license, the issuance of which is conditioned upon compliance with this Agreement.

APPLICANT:

WET DOG, LLC

By: 
Frank Economides MEMBER

Date Signed: 1.20.2015

PROTESTANTS:

ANC 1B:

By: _____
Ellen Sullivan, Commissioner

Date Signed: _____

GALLAGHER NEIGHBORHOOD GROUP:

By: _____
Vincent "Tucker" Gallagher, on behalf of himself
and nineteen other individuals

Date Signed: _____

WHEREFORE, by the signing of the representatives of Applicant and Protestants, Applicant hereby agrees to aforementioned covenants and Protestants agrees to the issuance of the Class CT license to Applicant, and withdraws its protest, provided that this agreement is incorporated into the ABC Board's order issuing a Class CT license, the issuance of which is conditioned upon compliance with this Agreement.

APPLICANT:

WET DOG, LLC

By: _____
Frank Economides

Date Signed: _____

PROTESTANTS:

ANC 1B:

By: 
Ellen Sullivan, Commissioner

Date Signed: Jan. 20, 2015

By: 
James Turner, Chair 1B, Commissioner 1B09

Date Signed: January 20, 2015

GALLAGHER NEIGHBORHOOD GROUP:

By: _____
Vincent "Tucker" Gallagher, on behalf of himself
and nineteen other individuals

Date Signed: _____

WHEREFORE, by the signing of the representatives of Applicant and Protestants, Applicant hereby agrees to aforementioned covenants and Protestants agrees to the issuance of the Class CT license to Applicant, and withdraws its protest, provided that this agreement is incorporated into the ABC Board's order issuing a Class CT license, the issuance of which is conditioned upon compliance with this Agreement.

APPLICANT:

WET DOG, LLC

By: _____
Frank Economides

Date Signed: _____

PROTESTANTS:

ANC 1B:

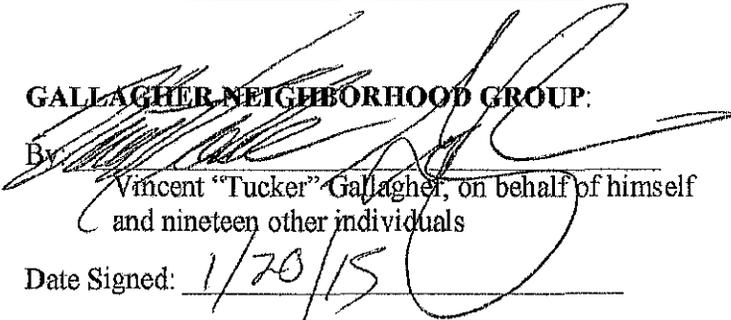
By: _____
Ellen Sullivan, Commissioner

Date Signed: _____

By:  _____
James A. Turner, Chair 1B, Commissioner 1B09

Date Signed: January 20, 2015

GALLAGHER NEIGHBORHOOD GROUP:

By:  _____
Vincent "Tucker" Gallagher, on behalf of himself
and nineteen other individuals

Date Signed: 1/20/15



MILLER, BEAM & PAGANELLI, INC.
CONSULTANTS IN ACOUSTICS, VIBRATION & AUDIOVISUAL SYSTEM DESIGN

December 19, 2014

Mr. Frank Economides
Fuzion/Economides LLC

RE: WET DOG TAVERN
Outdoor Lounge Area Noise Assessment and Barrier Recommendations

Dear Mr. Economides:

MBP has reviewed the proposed plans for the rooftop deck & ground level outdoor lounge area located on the west side the Wet Dog Tavern building located 2100 Vermont Avenue NW, Washington, D.C. An analysis was performed to predict potential noise from patrons at the space and the noise at surrounding sensitive locations. A summary of the noise criteria, analysis, and potential noise mitigation measures are presented below.

Noise Criteria / Goal

Though the DC noise code and the ABC are contradictory on this point, many noise ordinances including DC's, exempt the human voice from being subjected to noise code restrictions. However, as a guideline, the levels allowed by the code can be useful. The DC noise code restricts nighttime noise levels in residential areas to a maximum of 55 dBA.

When evaluating the following results, it is important to understand that the decibel (dB) scale, upon which sound level measurements are based, is logarithmic. A 3 decibel change (increase or decrease) is equal to a factor of 2 in energy (such as changing an audio amplifier from 5 watts to 10 watts, or vice versa), but to the human ear is only slightly perceptible. A change of 10 dB represents a factor of 10 change in energy (5 watts to 50 watts, or vice versa) and is subjectively twice (or one-half) as loud. The A-weighted decibel level (dBA) is the most universally used single number for rating human reaction to sound. The dBA scale approximates the ear's response to sound by discounting the low and highest frequency sounds where our ears are less sensitive and emphasizing the middle to high frequencies where our ears are most sensitive.

Analysis

The noise emanating from the Wet Dog or any other space will depend on several factors including: the number of people, the loudness of each individual, and the distance between source and receiver. Also, several factors influence the potential for disturbance besides just the loudness of the noise: the character of the sound, the length and time of day the sound occurs, the level of other background noise sources at the receiver, and noise mitigation between source and receiver (for example, the noise from outside will be louder inside if the window is open).

As these are complex systems, here they are somewhat simplified so a reasonable prediction of noise can be created. To begin, the loudness of a typical person speaking indoors is 60-65 dBA at a listener or receiver a distance of three feet away. A person will speak louder when background noise levels are louder, as expected outdoors or among other people, and so a baseline speaking level of 70 dBA is assumed for each person. We understand that the anticipated upper end in the range

of the number of patrons is around 70 people at the ground floor outdoor area and 15-20 people on the rooftop deck.

The loudness of a sound diminishes with increased distance to the source and also when there is an interference to the direct noise path, such as a building or noise barrier.

The area of concern closest to the outdoor lounge area is the nominal 6 story residential building with its south face a minimum distance of approximately 55 feet from the north property line of the outdoor lounge yard. Assuming 70 patrons talking simultaneously at 70 dBA located in the northern half of the yard area, the resulting unmitigated average noise levels at the closest residential area are in the 60-61 dBA range. The rooftop deck, with a capacity in the 15-20 patron range, is approximately 90 feet to the closest residential building location. Being further away and with fewer people, the expected noise levels are in the 50-51 dBA range, or about half as loud as from the ground floor lounge.

This is a somewhat conservative estimate, in that it assumes everyone is speaking simultaneously, and not stopping to listen. As noted above, if half the people stopped talking, the acoustical energy would drop by 50% and go down by 3 dBA to the 57-59 dBA range. Also, noise levels will diminish nominally 1-5 dBA with increased distance to the upper floor locations. We understand that there is an existing structure between the yard and the residential building. This will shield and reduce noise levels at ground and lower floors of the residential building. However, at the upper floors where one can see directly into the yard, this noise shielding is lost. The east and west residential building elevations, which do not face the yard and therefore do not have a direct noise path, will experience significantly lower noise levels.

Thus, anticipated average noise levels at the closest building of concern are moderately, but not significantly above the DC code level of 55 dBA due to activity in the ground level outdoor lounge. An occasional highly elevated yell or scream would be expected to exceed the average level. Thus, some practical amount of noise mitigation could be warranted for the outdoor lounge. The expected noise from the rooftop deck is well below the noise code and should not need mitigation.

Noise Mitigation

As noted above, we understand there is some existing structure(s) that provide some degree of noise reduction to the lower floors. Ideally, a structure could be installed to mitigate the noise to a larger area. The structure should be solid with no gaps at the bottom or between panels. To control the amount of sound passing through it, the barrier should have a minimum face weight of 2 pounds per square foot. Brick and masonry easily meet this weight requirement, though other materials are also acceptable such as ½ inch thick exterior grade plywood, nominal 18 gauge sheet metal, and others.

To block the noise north of the site, a barrier should be constructed along the north property line. For greatest effect, the barrier should be built as tall as possible. We understand a minimum height of 10 has been discussed. However, this would still only shield the lower floor or two, and therefore a taller barrier is encouraged.

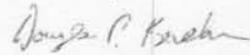
One method for gaining additional barrier effect with a "smaller" barrier is to cantilever the top toward the source. In practice, this is like putting a shed roof over the northern part of the yard.

This is shown conceptually in the figure below. Essentially, one can gain an additional two floors of shielding of noise at the residential building if one has a 10 foot barrier with a roof at a 6" vertical by 12" horizontal slope to a total height of 20 feet, than if one has a vertical 20 foot tall barrier.

Though in both cases, the observer can likely see the patrons at the southern most end of the yard, the noise from these few sources should be greatly reduced since (1) they are a small percentage of the total number of sources and (2) they are farther away than the average source and therefore quieter.

Please feel free to contact us if you have any questions.

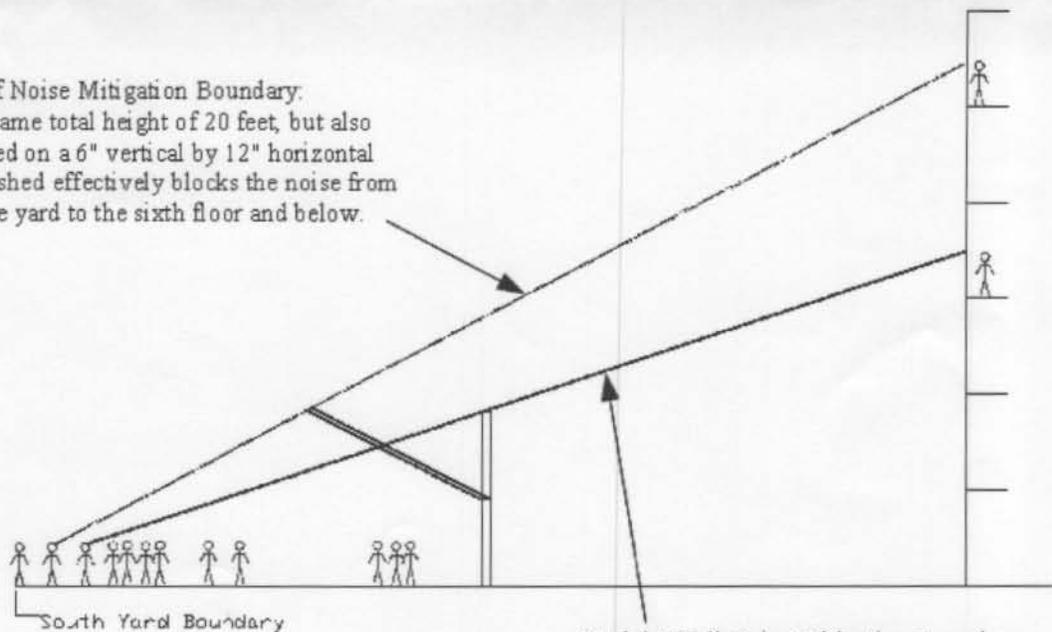
Sincerely,



Douglas P. Koehn, M.S.
Senior Consultant

Shed Roof Noise Mitigation Boundary:

With the same total height of 20 feet, but also cantilevered on a 6" vertical by 12" horizontal slope, the shed effectively blocks the noise from most of the yard to the sixth floor and below.



Straight Wall Noise Mitigation Boundary:
The 20 foot wall effectively blocks the noise from most of the yard to the fourth floor and below.

Subj: **FW: dimensioned sketch - Wet Dog**
Date: 12/11/2014 4:27:25 P.M. Eastern Standard Time
From: MBeam@millerbp.com
To: economidesdev@aol.com, dinae337@aol.com

Here is the sketch showing the effectiveness of the shed roof design.

Martin J. Beam

Principal

Miller, Beam & Paganelli, Inc.

Consultants in Acoustics, Vibration & AudioVisual System Design

12040 South Lakes Drive, Suite 104

Reston, Virginia 20191

(703) 506-0005 ext.13 (office)

(703) 506-0009 (fax)

www.millerbp.com

