



COPY

Mr Mohammed Javadi
2 Vaughan Parade,
Torquay,
Devon,
TQ2 5EG

Please reply to: Mr Karl Martin
Community Safety
Roebuck House
Abbey Road
Devon
TQ2 5EJ
My ref: U:001893/KJM
Your ref:
Telephone: 01803 208025
Fax: 01803 208854
E-mail: licensing@torbay.gov.uk
Website: www.torbay.gov.uk
Date: 23rd May 2014

Dear Mr Javadi

Re Section 80 Environmental Protection Act 1990

Statutory Noise Nuisance arising from the playing of amplified music at Shiraz 2 Vaughan Parade, Torquay, Devon, TQ2 5EG

I refer you to my letter dated 6th May 2014, regarding noise nuisance emanating from Shiraz.

Officers of this department are satisfied the existence of noise amounting to a statutory nuisance is likely to reoccur at the above premises. The enclosed abatement notice requires you as the licensee to cease immediately all activities likely to give rise to a nuisance.

If you would like to discuss ways of complying with this notice, I can be contacted on the telephone number above.

If you would like to discuss the enclosed notice, please do not hesitate to contact me on the telephone number above. **Should you contact the Council regarding this matter please always quote the reference number above.**

Yours sincerely

Mr Karl Martin
Public Protection Officer
Licensing and Public Protection

Please note that, apart from personal details subject to the Data Protection Act, information contained in this letter may be divulged to members of the public under the Freedom of Information Act 2000.

cc: Licensing Department East, Devon & Cornwall Police HQ, Middlemoor, Exeter, Devon, EX2 7HQ

Schools and services for children and young people • social care and housing • recycling, waste disposal and clean streets • community safety • roads and transportation • town planning • tourism, harbours and economic regeneration • consumer protection and licensing • leisure, museums, libraries and arts

If you require this in a different format or language, please contact me.



COMMUNITY SAFETY

ENVIRONMENTAL PROTECTION ACT 1990, SECTION 80
Abatement Notice in Respect of Statutory Noise Nuisance
Notice No: 001892/KJM

To: Mohammed Javadi
Of: Shiraz, 2 Vaughan Parade, Torquay, Devon, TQ2 5EG

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the TORBAY COUNCIL being satisfied of the likely occurrence of noise amounting to a statutory nuisance under section 79(1)(g) of that Act at: Shiraz, 2 Vaughan Parade, Torquay, Devon, TQ2 5EG

within the district of the said Council arising from **THE PLAYING OF AMPLIFIED MUSIC**

HEREBY REQUIRE YOU as the owner or occupier of the premises for the said nuisance to prevent its occurrence forthwith.

IF without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be committing an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding level 5 on the Standard Scale, together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction.

A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding £20,000.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance.

If you fail to comply with this Notice the Council may abate the nuisance and do whatever may be necessary in execution of the Notice.

Signed
Mr Karl Martin
Public Protection Officer
(Officer Appointed for this purpose)

Dated 23rd May 2014
(time notice served)

Name, address and telephone number for all communications: Executive Head, Community Safety, Torbay Council, Roebuck House, Abbey Road, Torquay: TQ2 5EJ Telephone: 01803 208091

N.B. A person served with this notice may appeal against the notice to a magistrates' court within twenty-one days beginning with the date of service of the notice. See the notes on the reverse of this form.

The Statutory Nuisance (Appeals) Regulations 1995 provide as follows:-

Appeals under section 80(3) of the 1990 Act

- (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case:-
- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
 - (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
 - (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
 - (d) that the time, or where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
 - (e) where the nuisance to which the notice relates:-
 - (i) is a nuisance falling within section 79(1)(a),(d),(e),(f) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
 - (ii) is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, or
 - (iii) is a nuisance falling within section 79(1)(ga) (a) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes,that the best practicable means were used to prevent, or to counteract the effects of, the nuisance.
 - (f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of:-
 - (i) any notice served under section 60 or 66 of the 1974 Act (control of noise on construction sites and from certain premises), or
 - (ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
 - (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings);
 - (g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the 1993 Act (loudspeakers in streets or roads);
 - (h) that the abatement notice should have been served on some person instead of the appellant, being:-
 - (i) the person responsible for the nuisance, or
 - (ii) the person responsible for the vehicle, machinery or equipment, or
 - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
 - (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
 - (i) that the abatement notice might lawfully have been served on some person instead of the appellant being:-
 - (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
 - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises,and that it would have been equitable for it to have been so served;
 - (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being:-
 - (i) a person also responsible for the nuisance, or
 - (ii) a person who is also owner of the premises, or
 - (iii) a person who is also an occupier of the premises, or
 - (iv) a person who is also the person responsible for the vehicle, machinery or equipment,and that it would have been equitable for it to have been so served.
- (3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (5) On the hearing of the appeal the court may:-
- (a) quash the abatement notice to which the appeal relates, or
 - (b) vary the abatement notice in favour of the appellant in such manner as it thinks fit, or
 - (c) dismiss the appeal;
- and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit:-
- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
 - (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.
- (7) In exercising its powers under paragraph (6) above the court:-
- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, where contractual or statutory, of any relevant tenancy and of the nature of the works required, and
 - (b) shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.
- Suspension of notice
- (1) Where:-
- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and-
 - (b) either-
 - (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or
 - (ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
 - (c) either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met,
- the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) This paragraph applies where:-
- (a) the nuisance to which the abatement notice relates:-
 - (i) is injurious to health, or
 - (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
 - (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (3) Where paragraph (2) applies the abatement notice:-
- (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and
 - (b) shall include a statement as to which of the grounds set out in paragraph (2) apply.



Please reply to: Karl Martin

Licensing and Public Protection

Community Safety, c/o Town Hall, Castle Circus,

Torquay

TQ1 3DR

My ref: SRU/203434

Your ref:

Telephone: 01803 208025

E-mail:

Website:

Date: 6 May 2014

Mohammed Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EF

COPY

Dear Sir

Licensing Act 2003 - Unlicensed activities and alleged nuisance

Re: Shiraz Cafe Bar, 2 Vaughan Parade, Torquay, Devon, TQ2 5EF

The department has received a complaint about noise emanating from your premises. I am concerned about the nature of the complaint because you have been warned on numerous occasions for hosting licensable activities you are not authorised and that give rise to alleged noise nuisance.

The complainant alleges on Saturday 3rd of May 2014 between the hours 8:00pm and Midnight live music was heard emanating from Shiraz, including use of exterior speakers. Again on Sunday the 4th it is alleged a live band started playing at 6:50pm and continued to cause a nuisance for several hours.

I ask you to put in writing an explanation of the music you had over the weekend on Saturday and Sunday and tell me what measures you or your staff undertook to ensure the volume of music did not cause a nuisance.

The premise will be monitored by officers of this department to ensure compliance with the Licensing Act 2003 and the Environmental Protection Act 1990. Please reply in writing in the next 7 working days.

Yours sincerely

Karl Martin
Public Protection Officer
Torbay Council



SHIRAZ

2 Vaughan Parade
TORQUAY
TQ2 5EF

Tel: 01803 200201

Attn Karl Martin
Licensing and Public Protection
Community Safety
Town Hall
Castle Circus
Torquay
TQ1 3DR

15th May 2014



Dear Karl

Thank you for your letter of 6th May 2014,

I am a little surprised as to the contents of your letter as the entertainment was provided as part of the weekend event managed by the Torbay Town Centre Management Co and was organised in relation with them.

The music finished at 10pm one night and 10.30pm on the second night

The noise levels were monitored by myself and my senior staff at all times and at no time was any complaint received by us,

As in the past whenever live music is provided we will monitor the noise levels as necessary

Yours Sincerely

M Javadi
Director
MGM Torbay Ltd



Mr. M Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

COPY

Please reply to: Karl Martin
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,
Torquay

TQ1 3DR

My ref: SRU/192521

Your ref:

Telephone: 01803 208025

E-mail:

Website:

Date: 17 September 2013

Dear Mr. Javadi

**Licensing Act 2003 and Environmental Protection Act
Alleged Nuisance and breach of licensing Act at Shiraz Cafe Bar 2 Vaughan Parade
Torquay Devon TQ2 5EG**

I write in reference to a meeting with you at Commerce House on the 4th September, also present at the meeting was Dave Walker, Senior Environmental Health Officer, Torquay Council. The meeting was arranged to discuss with you a number of observations by Council Officers relating to the permitting of unauthorised licensable activities to take place at your premises. Specifically the following have been noted on more than one occasion as discussed during the meeting:

1. Knowingly or permitting amplified music (any music volume above background levels) to take place after 11:00pm, the time limit currently authorised by your premises licence and;
2. Knowingly or permitting acoustic or amplified live music to take place after 11:00pm. The Live Music Act 2012 allows live performances without authorization up to the time of 11:00pm. After 11:00pm you need authorisation which is not granted as per your premises licence.

Gareth Fudge, Senior Environmental Health Officer and I have written to you several times in the past two years warning you by undertaking these activities you are committing a criminal offence. Future infringements of the Licensing Act will not be tolerated and I will have no choice but to prepare a prosecution case for referral to the Environmental Health Manager for his consideration.

I will remind you under the Live music Act 2012 the performance of live music was deregulated, but only for performances between the hours 8:00am and 11:00pm with an audience of no more than 200 people. After 11:00pm live music becomes regulated again and you must be authorised by your licence. Your existing licence does not authorise you for live music beyond 11:00pm. You must not however allow any performances in your café permit area as this is prohibited under condition 8 at any time.

I will draw your attention to a number of conditions on your licence that you must observe at all times:

1. *Noise and vibration will not emanate from the premises such as to cause persons in the*

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neighbourhood to be unreasonably disturbed. In general terms, noise from the premises should not be audible within any noise sensitive premises (e.g. dwelling) with windows open for normal ventilation especially after 23:00hr. This will be assessed from the boundary to the nearest residential properties, on all sides of the licensed premises. The criteria that will be applied are;

(a) Before 23:00hr- Noise emanating from the premises will not be clearly distinguishable above other noise.

(b) After 23:00hr- Noise emanating from the premises will not be distinguishable above background levels of noise.

(c) The local authority will reserve the right in cases of tonal noise and where premises are attached to others (i.e. semis and terraced properties), to make further assessments from within the residential property.

During the meeting we talked in detail about how you could vary your existing licence to include amplified and live music beyond 11:00pm. In order that I could agree to this variation I would be seeking additional conditions to be attached to your licence to satisfy the Council and members of the public the licensing condition 'Prevention of Public Nuisance' would be upheld.

I would anticipate the minimum I would be looking for is the following:-

Installation of a noise limiter - a device that limits the maximum volume of amplified sound so that the volume cannot exceed a level likely to give rise to a nuisance. The limit would be set by the Council with your input.

Door and windows closed at all times after 11:00pm – to minimise noise breakout.

Live music - the latest I would feel comfortable is midnight, amplified later if a noise limit level can be agreed.

Noise management plan – A written policy and procedure in place to ensure the above is implemented in additions to controls asking customers to leave quietly.

If you wish to proceed with the minor variation application please contact Karen Ellicot on 01803 208025, Ms Ellicot works Wednesday to Friday. If you wish to discuss the contents of this letter please call me on the same number quoting SR 192521

Yours sincerely

Mr Karl Martin
Public Protection Officer
Licensing and Public Protection



Please reply to: Karl Martin
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,

Torquay
TQ1 3DR

COPY

Mr Mohammed Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

My ref: SRU/192521

Your ref:

Telephone: 01803 208025

E-mail:

Website:

Date: 15 August 2013

Dear Mr Javadi

Licensing Act 2003 and Environmental Protection Act

**RE: Alleged Nuisance arising and Breach of Licensing Conditions at Shiraz Cafe Bar 2
Vaughan Parade Torquay Devon TQ2 5EG**

I write to you as this department has recently collected evidence of continued breaches of licensing conditions at your premises. These breaches have led to noise complaints from nearby residents and the Council is obliged to take action where noise complaints are justified.

Licensing conditions are attached to your premise licence to ensure the premises are run to a standard that complies with the four licensing objectives. Evidence collected by Torbay Council Officers and evidence provided by local residents demonstrates you are not complying with the Licensing Objectives, specifically The Prevention of Public Nuisance.

Not complying with licensing conditions and causing nuisance is not a situation the licensing department can allow to continue. Therefore I formally invite you to a meeting at Torbay Council Offices to discuss the matter further with the intention of developing a written management plan to ensure this situation does not reoccur.

I strongly recommend you familiarise yourself with the premises licence and satisfy yourself that you are complying with all the conditions of your licence. I would like you to attend 1st Floor Commerce House, Abbey Road on Friday 22nd at 10:00pm. The meeting should not take more than 1 hour. If this time is not convenient please email me using the above email address with an alternative date.

Yours sincerely

Mr Karl Martin
Public Protection Officer
Licensing and Public Protection



COPY

Mohammed JAVADI
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

Please reply to: Karl Martin
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,
Torquay
TQ1 3DR

My ref: SRU/192521

Your ref:

Telephone: 01803 208025

E-mail:

Website:

Date: 4 July 2013

Dear Mr Javadi

**Licensing Act 2003 and Environmental Protection Act
Alleged Nuisance arising from Shiraz Cafe Bar 2 Vaughan Parade Torquay Devon TQ2 5EG**

I write further to a meeting with you at the above premises on 3rd July 2013. David Walker, Senior Environmental Health Officer, Torbay Council was also present at the meeting.

I discussed with you during the meeting a complaint have received from a nearby resident regarding excessive noise from live music acts in your café permit area. Although I understand you have permission from the Highways department of Torbay Council to for a band to play outside of your café permit area on Sunday afternoon between the hours of 1pm-5:00pm, you do not have the suitable authorisation for Live music after 11:00pm Mon-Sun. You are not authorised for amplified music at any time, unless authorised by a Temporary Event Notice.

In addition condition 8 of your café permit prohibits the performance music (live or recorded) and have referred the matter to Steve Leatherland, Highways Department, Torbay Council for his consideration.

The Council has written to you on several occasions in the past reminding you that your premises is not licenced for amplified music. You should be aware that trading outside the conditions set by your licence is an offence under the Licensing Act 2003 for which you may either be prosecuted or for which a review of your licence may be sought. The Licensing Committee may decide to add conditions to your licence or may partially or completely revoke your licence.

Officer of this department will continue to monitor the situation over the coming months. If you wish to discuss further the contents of this letter please do not hesitate to contact me on the above number.

Yours sincerely

Mr Karl Martin
Public Protection Officer
Licensing and Public Protection



COPY

Mr Mohammed Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

Please reply to: Gareth Fudge
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,
Torquay

TQ1 3DR

My ref: SRU/186502

Your ref:

Telephone: 01803 208025

E-mail: licensing@torbay.gov.uk

Website:

Date: 5 February 2013

Dear Mr Javadi

Section 62 Control of Pollution Act 1974

The Operation of Loudspeakers in the Street

I have received a complaint alleging that over the Christmas period your premises was operating a loudspeaker in the street.

The above Act makes it an offence to operate a loudspeaker in the street for the purposes of advertising and for any purpose not connected with transport after the hours of 21:00. As the complainant indicated you were playing music after 21:00 you would have been committing an offence under the terms of the above Act.

Should I gain evidence that you are continuing to operate a loudspeaker in the street, I shall be left with no alternative but to refer the matter for prosecution. I am obliged to remind you that upon conviction, the maximum fine for operating a loudspeaker in the street is £5000.

It is therefore, in your interest to ensure that there are no further breaches.

Yours sincerely

Mr Gareth Fudge
Senior Environmental Health Officer
Licensing and Public Protection

cc: Licence holder if different to DPS
cc: Licensing Department East, Devon & Cornwall Police HQ, Middlemoor, Exeter, Devon, EX2 7HQ



Mr. M Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

COPY

Please reply to: Karl Martin
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,
Torquay
TQ1 3DR
My ref: SRU/192521
Your ref:
Telephone: 01803 208025
E-mail:
Website:
Date: 17 September 2013

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Alleged Nuisance and breach of licensing Act at Shiraz Cafe Bar 2 Vaughan Parade
Torquay Devon TQ2 5EG**

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neighbourhood to be unreasonably disturbed. In general terms, noise from the premises should not be audible within any noise sensitive premises (e.g. dwelling) with windows open for normal ventilation especially after 23:00hr. This will be assessed from the boundary to the nearest residential properties, on all sides of the licensed premises. The criteria that will be applied are;

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I would anticipate the minimum I would be looking for is the following:-

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Live music - the latest I would feel comfortable is midnight, amplified later if a noise limit level can be agreed.

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If you wish to proceed with the minor variation application please contact Karen Ellicot on 01803 208025, Ms Ellicot works Wednesday to Friday. If you wish to discuss the contents of this letter please call me on the same number quoting SR 192521

Yours sincerely

Mr Karl Martin
Public Protection Officer
Licensing and Public Protection



Please reply to: Karl Martin

Licensing and Public Protection

Community Safety, c/o Town Hall, Castle Circus,

Torquay

TQ1 3DR

My ref: SRU/192521

Your ref:

Telephone: 01803 208025

E-mail:

Website:

Date: 15 August 2013

Mr Mohammed Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

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Dear Mr Javadi

Licensing Act 2003 and Environmental Protection Act

**RE: Alleged Nuisance arising and Breach of Licensing Conditions at Shiraz Cafe Bar 2
Vaughan Parade Torquay Devon TQ2 5EG**

I write to you as this department has recently collected evidence of continued breaches of licensing conditions at your premises. These breaches have led to noise complaints from nearby residents and the Council is obliged to take action where noise complaints are justified.

Licensing conditions are attached to your premises licence to ensure the premises are run to a standard that complies with the four licensing objectives. Evidence collected by Torbay Council Officers and evidence provided by local residents demonstrates you are not complying with the Licensing Objectives, specifically The Prevention of Public Nuisance.

Not complying with licensing conditions and causing nuisance is not a situation the licensing department can allow to continue. Therefore I formally invite you to a meeting at Torbay Council Offices to discuss the matter further with the intention of developing a written management plan to ensure this situation does not reoccur.

I strongly recommend you familiarise yourself with the premises licence and satisfy yourself that you are complying with all the conditions of your licence. I would like you to attend 1st Floor Commerce House, Abbey Road on Friday 22nd at 10:00pm. The meeting should not take more than 1 hour. If this time is not convenient please email me using the above email address with an alternative date.

Yours sincerely

Mr Karl Martin
Public Protection Officer
Licensing and Public Protection



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Mohammed JAVADI
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

Please reply to: Karl Martin
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,
Torquay
TQ1 3DR

My ref: SRU/192521

Your ref:

Telephone: 01803 208025

E-mail:

Website:

Date: 4 July 2013

Dear Mr Javadi

Licensing Act 2003 and Environmental Protection Act
Alleged Nuisance arising from Shiraz Cafe Bar 2 Vaughan Parade Torquay Devon TQ2 5EG

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In addition condition 8 of your café permit prohibits the performance music (live or recorded) and have referred the matter to Steve Leatherland, Highways Department, Torbay Council for his consideration.

The Council has written to you on several occasions in the past reminding you that your premises is not licenced for amplified music. You should be aware that trading outside the conditions set by your licence is an offence under the Licensing Act 2003 for which you may either be prosecuted or for which a review of your licence may be sought. The Licensing Committee may decide to add conditions to your licence or may partially or completely revoke your licence.

Officer of this department will continue to monitor the situation other the coming months. If you wish to discuss further the contents of this letter please do not hesitate to contact me on the above number.

Yours sincerely

Mr Karl Martin
Public Protection Officer
Licensing and Public Protection



COPY

Mr Mohammed Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EG

Please reply to: Gareth Fudge
Licensing and Public Protection
Community Safety, c/o Town Hall, Castle Circus,
Torquay
TQ1 3DR

My ref: SRU/186502

Your ref:

Telephone: 01803 208025

E-mail: licensing@torbay.gov.uk

Website:

Date: 5 February 2013

Dear Mr Javadi

Section 62 Control of Pollution Act 1974

The Operation of Loudspeakers in the Street

I have received a complaint alleging that over the Christmas period your premises was operating a loudspeaker in the street.

The above Act makes it an offence to operate a loudspeaker in the street for the purposes of advertising and for any purpose not connected with transport after the hours of 21:00. As the complainant indicated you were playing music after 21:00 you would have been committing an offence under the terms of the above Act.

Should I gain evidence that you are continuing to operate a loudspeaker in the street, I shall be left with no alternative but to refer the matter for prosecution. I am obliged to remind you that upon conviction, the maximum fine for operating a loudspeaker in the street is £5000.

It is therefore, in your interest to ensure that there are no further breaches.

Yours sincerely

Mr Gareth Fudge
Senior Environmental Health Officer
Licensing and Public Protection

cc: Licence holder if different to DPS

cc: Licensing Department East, Devon & Cornwall Police HQ, Middlemoor, Exeter, Devon, EX2 7HQ

COPY

Mr Javadi
Shiraz
2 Vaughan Parade
Torquay
TQ2 5EJ

Please reply to: Ms Mandy Guy
Community Safety
Roebuck House
Abbey Road,
Devon
TQ2 5EJ

My ref: SRU - 167496
Your ref:
Telephone: 01803 208025
Fax: 01803 208854
E-mail: Licensing@torbay.gov.uk
Website: www.torbay.gov.uk
Date: 19 October 2011

Dear Mr Javadi

Notice under Section 41(C) Licensing Act 2003

Application for a Minor Variation to a Premises Licence – PL0415 Shiraz, 2 Vaughan Parade, Torquay

I am writing to you regarding your application for a Minor Variation to a Premises Licence for Shiraz.

I can confirm that the application for a Minor Variation was rejected.

The reason for the rejection is that there was a representation made from an Interested Party, whose representation was considered relevant. Relevance is determined where the representation

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clearly relates to the likely effect of the grant of the variation on the promotion of at least one of the Licensing Objectives. Where it is determined, as it was in this case, that the representation does effect the promotion of one or more of the Licensing Objectives then the application must be refused. In this case the representation was about the Licensing Objective the Prevention of Public Nuisance.

There are no appeal rights, however the Licensing Act 2003 allows for a Full Variation application to be made. This allows for the neighbours to make representations, but unlike the Minor Variation process this would generate a hearing in front of the Licensing Committee/Sub-Committee, who would make a decision on the application. For further advice visit the Torbay Council Webpage on Premises Licence – Full Variation. Link below:-

<http://www.torbay.gov.uk/index/business/licensing/licensingact2003/premiseslicencevariation.htm>

If you have any queries regarding this letter then please do not hesitate to contact me quoting the above reference number.

Yours sincerely

Ms Mandy Guy

Senior Licensing Officer

Licensing and Public Protection

Cc Licensing Department, Paignton Police Station, PO Box 1, Paignton TQ3 2YF

COPY

Mr Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EF

Please reply to: Mr Gareth Fudge
Licensing and Public Protection
Roebuck House
Abbey Road, Torquay, Devon TQ2 5EJ

My ref: SRU/168268 7FB
Your ref:
Telephone: 01803 208010
Fax: 01803 208854
E-mail: licensing@torbay.gov.uk
Website: www.torbay.gov.uk
Date: 25 October 2011

Dear Sir

Licensing Act 2003 – Playing of Amplified music

I refer to my colleague Ms Mandy Guy's letter of the 19th of October 2011.

I have received another complaint alleging that you are continuing to play music at your premises and that the level is such that it is causing a disturbance to local residents in the area.

I must remind you that you are not licensed to play amplified music and should you continue to play music on your premises you will be in breach of your licence. As such, you will be committing an offence. You are permitted to play background music which is not a licensable activity. Background music is music that is played to provide an ambience in a premises and would not interfere with speech within the premises and would certainly not be audible outside the premises.

Should I gain evidence that you are continuing to operate in breach of your licence, I will have no alternative but to refer the matter to our legal team for prosecution. You should be aware, that operating a licensed premises in a manner not in accordance with its premises licence is a serious matter carrying a maximum penalty of £20,000, six months in prison or both.

It is therefore in your interest to ensure that the playing of music ceases immediately.

If you wish to apply to add music to your licence, I suggest that you apply for a licence as detailed in my colleagues letter of the 19th of October 2011.

Yours faithfully

Mr Gareth Fudge
Senior Environmental Health Officer
Licensing and Public Protection

cc: Chief Superintendent of Police, c/o Licensing Team, Devon and Cornwall Police, PO Box 1

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If you require this in a different format or language, please contact me.

COPY

Mohammed Javadi
Shiraz Cafe Bar
2 Vaughan Parade
Torquay
Devon
TQ2 5EF

Please reply to: Karl Martin
Licensing and Public Protection
1st Floor Roebuck House
Abbey Road
Torquay, TQ2 5EJ

My Ref: SRU No: 164529 2TH – Noise 1

Your Ref:

Telephone:

Fax: 01803 208854

E-mail: Environmental.Protection@torbay.gov.uk

Website: www.torbay.gov.uk

Date: 14th July 2011

Dear Sir

Environmental Protection Act 1990 – Noise breakout From Shiraz
Re: Shiraz Cafe Bar, 2 Vaughan Parade, Torquay, Devon, TQ2 5EF

As part of our work investigating complaints of noise from licensed premises on the harbour side, officers from this department visited the area last weekend to assess the level of noise coming from various premises on the harbour side.

It was noted during their time in the area there was noise breaking out of your premises. Although the Officers noted the music breaking out of your premises was not as significant as observed at other premises they felt it was adding to the general background noise in the local vicinity.

I appreciate we have not had any complaints from local residents specifically referring to Shiraz, however your assistance will greatly aid in helping to reduce the overall noise levels in the harbour area, particularly at the weekends.

I would like to point out your premises has not been singled out and there are many premises in the harbour area which are significantly contributing more to the noise levels than your premises. In turn we will be working closely with each premise in the coming months.

If you could monitor noise levels, particularly after 11pm and where necessary take remedial action. For example ensure all windows and doors are closed after 11pm, and turn the volume of music down after 11:00pm and/or reduce the bass. Alternatively you might wish to consider installing a limiter which can be kept under direct control of the management at.

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Thank you for co-operation and if I can be of any further assistance or you would like to discuss any details of this letter please do not hesitate to contact me on the number above.

Yours sincerely

Karl Martin
Safety and Noise Officer
Licensing and Public Protection