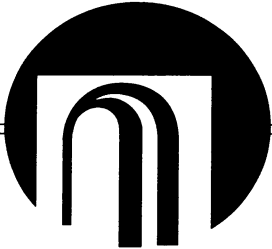


U
niversity Park at
MIT's Commuter Services
Program can help make
your daily commute easy,
efficient and economical.



COMMUTER
SERVICES
PROGRAM



UNIVERSITY
PARK
AT MIT

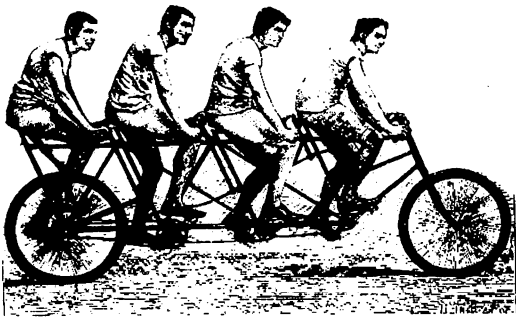
FORESTCITY DEVELOPMENT
26 Lansdowne Street, Cambridge, MA 02139
617/225-0310



University Park at MIT's Commuter Services Program can help make your daily commute easy, efficient and economical

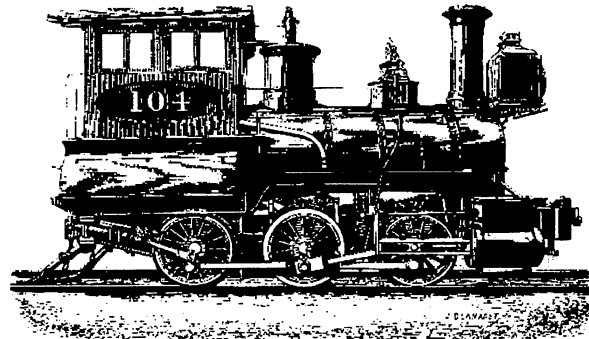
Here's how:

- ☛ **On Site MBTA Pass Sales** - Purchasing a monthly T-Pass will provide fast and efficient access to the transit system, eliminating the need for tokens, and will help you save money on transit costs. In addition, you will also be entitled up to a \$75 savings on your car insurance!



- ☛ **RideSource Network** - The University Park at MIT RideSource Network, developed by Caravan for Commuters, Inc. matches University Park at MIT commuters with other individuals interested in sharing rides to and from University Park. A computerized database is used to develop carpools and vanpools for people who live near each other and share similar work schedules. The RideSource Network is free; simply fill out the registration card included in this brochure and return to Forest City Development.

- ☛ **Reserved Parking for Carpools and Commuter Vans** - University Park offers reserved preferential parking spaces for carpools and commuter vans in University Park lots.



Also, the Massachusetts Turnpike Authority's Car Pool Pass Program helps you save money on daily tolls. Valid seven days a week, 24 hours a day, the Pass can be used anytime there are three or more people in your car. Call Forest City Development's Transportation Coordinator to request a Car Pool Pass Application, 225-0310.

- ☛ **Extended Building Hours**

University Park at MIT offers extended building hours that encourage firms to offer flexible work schedules, helping you to avoid rush hour traffic.

- ☛ **Transportation Coordinator**

A Transportation Coordinator is available through Forest City Development to meet with commuters and to provide information on transportation options. Call Forest City Development at 225-0310 for more information.

- ☛ **University Park Van Shuttle to Red Line**

Taking to University Park is easier with a van shuttle to and from Central Square.

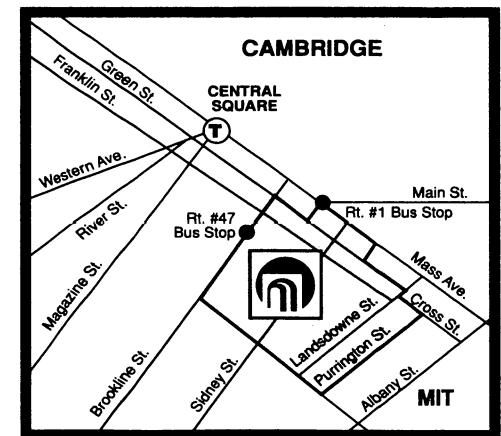
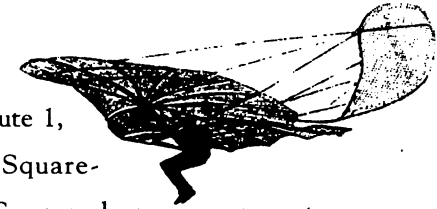
COMING SOON!

University Park is MBTA Accessible by:

- ☛ **MBTA Rapid Transit** - University Park is a short walk from Central Square Station on the Red Line, and only an 8 minute ride from Park Street Station.

- ☛ **MBTA Bus Routes** - University Park is serviced directly

by the Route 1, Harvard Square-Dudley Square bus route. This route can take you to the Hynes Convention Center in the Back Bay as well as to Harvard Square. The Route 47, Central Station bus route provides direct service from the Longwood Medical area and stops on Brookline Street adjacent to University Park.





UNIVERSITY
PARK
AT M·I·T

RIDESOURCE DATA CARD

Date _____

Name _____

Home Address _____

City or Town _____ State, Zip _____

Home Phone _____ Work Phone _____

Business Mailing Address (including street) _____

Begin Work _____

Leave Work _____

Minutes Flexible _____

1. Please check all categories of interest:

- Carpool
- Vanpool
- Public Interest

2. Desired form of participation:

- Drive only
- Share Driving
- Ride Only

3. What is your MAIN form of transportation to work:

Drive alone

- Vanpool
- Bus
- Train
- MBTA

4. If there is not a match in University Park's RideSource pool, may we submit your information to the Caravan RideSource pool?

- Yes
- No

Cambridge Center Transportation Services Program

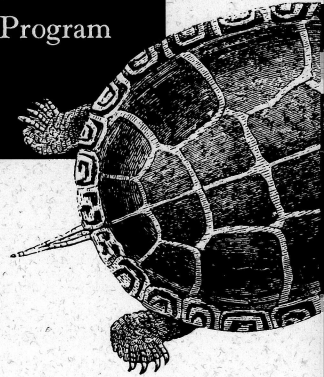
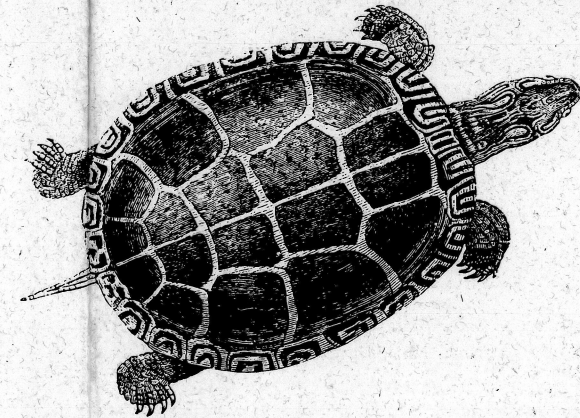
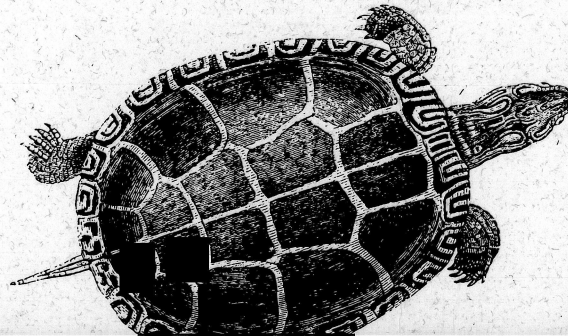
c/o Boston Properties
8 Arlington Street, 3rd Floor
Boston, MA 02116

Attn: Transportation Coordinator

Cambridge Center Transportation Services Program is organized by a network of creative commuters whose intent is to ease the hectic commute and reduce traffic congestion by promoting efficient and economical means of transportation. Working with the City of Cambridge and CARAVAN for Commuters, Inc. the network has established this program to help meet the transportation needs of companies and their employees working in and around the Cambridge Center area. The goal of the program is to address the problems of traffic congestion, pollution and the cost of commuting by reducing the number of single occupant vehicles on the road through increased availability of the mass transit passes, car and van pooling and other creative means. Your ideas and suggestions are welcome and encouraged.

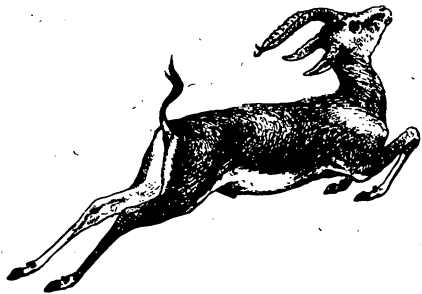
A COMMUTER'S
GUIDE TO
BEATING THE
MORNING
BACK-UP

Cambridge Center
Transportation Services Program

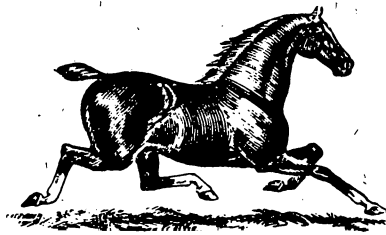


Cambridge Center
Transportation Services Program
will help make your commute easier and ease traffic
congestion in the area.
Here are some of the features the program offers:

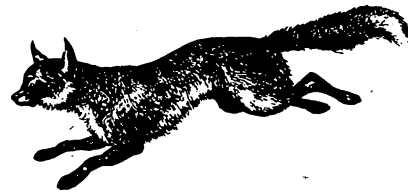
Transportation Coordinator
Boston Properties' Transportation
Coordinator is equipped with information on bus
and train routes and schedules, costs and locations of
park and ride lots near you, and on-line computer
access to a data base of commuters interested in
sharing a ride. For information call 859-2656.



On-Site MBTA Pass Sales
Purchasing a monthly T-pass at Cambridge Center
provides fast and efficient access to the transit
system, eliminating the need for tokens, and will
help you save money on transit costs. Savings on car
insurance is also available to you through continued
use of T-passes. The MBTA red line station at
Kendall Square is located directly within the
confines of Cambridge Center only minutes from
downtown Boston, Harvard Square, Alewife
station, and other MBTA lines.



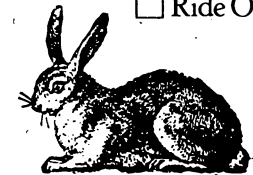
RideSource Network
The Cambridge Center RideSource Network,
developed by CARAVAN for Commuters, Inc.,
matches Cambridge Center commuters interested in
sharing rides to and from Cambridge Center and the
surrounding area. A computerized data base
program is used to develop car pools and van pools
for people who live near each other and share similar
work schedules. Participation in the RideSource
network is free. Simply fill out the registration card
attached to this brochure, detach and return to
Boston Properties.



Cambridge Center Garage Services
Reserved parking for car pools and commuter vans
and locked and enclosed bicycle racks are available at
Cambridge Center garages.

RideSource Registration Card

Name _____ Date _____
Home Address _____
Home Town _____ Zip Code _____
Employer _____
Work Address _____
Town _____ Zip Code _____
Arrive Work _____ a.m./p.m.
Leave Work _____ a.m./p.m.
Present form of transportation to work _____
Please check all areas of interest:
 Car Pool Public Transit Lines
 Van Pool Private Bus
Desired form of participation:
 Drive Only Ride Only
 Share Driving



Upon receipt of your registration card, your name
will be placed in the RideSource data base for
matching with other commuters from your area.
Your name and work trip information will be given to
others who may call you about commuting together.
Only your work phone number will be given to
potential matches. We will also inform you directly
of ridesharing, van pools and other commuting
options available to you.

ARTS

Library's 5th annual jazz festival begins

Across the river, they're preparing for the annual Boston Globe Jazz Festival next week, but on this side, the Cambridge Public Library this week celebrates the fifth anniversary of the Cambridge Jazz Festival with the best of strictly local talent.

The series kicks off Sunday, June 10, at 1 pm with a performance by the Cambridge Kindred and Latin School Jazz Band at Lai Lai Restaurant, 700 Mass. Ave. in Central Square. Day Two of the festival will also be at the Lai, featuring the Lai Lai All Star Jam Band in a concert Monday, June 11, at 7 pm.

The remaining events will be at the library, 449 Broadway. Big bands will play Tuesday and Wednesday, June 12-13. On Tuesday, the Belmont-based Sounds of Swing will visit the library at 7 pm, and on Wednesday at 7 pm, it will be the 17-piece Boston Jazz Orchestra, which is also scheduled to play in the Boston festival later in the month.

On Thursday, June 14, Tierney Sutton will perform with pianist Javier Perez-Saco at 7 pm. Friday's 7 pm concert will feature drummer Harold Lane and his quartet, with vocalist Cheryl Alexander. Working with Lane are saxophonist Sonny Watson, bassist Larry Roland and pianist Walter Radcliffe.

Saturday's concluding concert at 1 pm will put the spotlight on pianist Frank Wilkins and Visions.

All concerts are free. For more information, call the library at 498-9080, ext. 9704.



"LE TRI DONG, HANOI, 1989, Veteran of the American War" is among the photographs by William Short on display this month at the Cambridge Arts Council's Gallery 57, 57 Inman St. An opening reception is scheduled today, June 7, from 5-7 pm. The exhibit runs through June 30 and can be seen weekdays, 8:30 am to 5 pm.

Jazz vocalist performs June 22

Jazz vocalist Chinyere Nnenna Freelon will perform on Friday, June 22, at 7:30 pm at the Christian Life Center, 85 Bishop Allen Drive, in a benefit concert for the committee to elect the Rev. Leroy Atles as bishop.

The performance will be a homecoming for Freelon, who was born on Chilton Street in Cambridge and was married in 1979 by Atles, pastor of St. Paul AME Church. She attended the Russell elementary school (renamed the Tobin) and was an active member of St. Paul, where she sang in the New Temple Singers Choir. Freelon is married and lives in Durham, N.C., with her three children. Freelon's mother, Frances Pierce, is a teacher in the Cambridge public schools and an active member of St. Paul.

The concert is billed as "A Musical Walk through African-American History" and features Freelon, whose African name, Chinyere (God's gift) Nne-Nna (first born daughter), has its origin in Nigeria, West Africa. For further information call the Christian Life Center, 661-1110.

Armenian events

The Armenian Childrens Dance Ensemble will perform in a program sponsored by the Cambridge-Yerevan Sister City Association Monday, June 11, at 7:30 pm at the First Armenian Church, 380 Concord Ave., Belmont.

A television program titled "Other Voices, Other Songs: The Armenians" is scheduled to air Tuesday, June 12, at 9 pm on WGBX-TV, Channel 44. The program will celebrate the vitality of Armenian music and dance through interviews and performances.

Medical clinic to serve Y residents

Continued from page 1

insurance, and a fear of medical costs and a lack of knowledge about options for health care keep many of the men from seeking medical help until they have reached a point of crisis.

"They wait and wait until they literally have to be taken out by ambulance," he said. "This is a very important outreach for those people."

For prevention too

Ideally, residents will use the clinic not only for serious illnesses, but for health maintenance and preventive medicine as well, said Lahti. For example, he said the clinic might monitor a diabetic resident's health or follow up on residents' previous treatments. Some residents have already used the clinic to have their blood pressure checked, Lahti said.

More than 500 men live at the Cambridge YMCA over the course of a year, some for only a few days, some for months or even years. The men served by the Y include travelers, students, veterans, men in programs with the Department of Human Services and men placed through Cambridge and Somerville Cooperative Apartment Project, an organization which places mentally ill clients in independent and semi-independent housing.

The Y is not a shelter, explained Residence Manager David Alys. Rather, it is low-income single room occupancy housing. Rooms cost from \$75 to \$85 weekly, or \$30 a night for short-term rooms.

Jim, who asked that his last name not be used, has been a resident of the

Y since April. Jim said the clinic opened at a perfect time for him. He had been having migraine-type headaches due to a sinus infection, and if it hadn't been for the clinic, he said he would have ended up in the emergency room at The Cambridge Hospital.

Jim said that the convenience, warmth, and welcoming environment at the clinic make it a place that he will gladly use. He also said he sees it as more cost effective and responsible than going to the emergency room and having taxpayers foot the bill.

"I never know what some person is billing the state for in my name," he said of his Medicaid coverage.

Paul O'Brien, a Vietnam veteran who is studying clinical psychology at UMass Boston and is a long-time resident of the Y, said residents there have "a lot of medical problems and requirements."

O'Brien also pointed out that many of the people who live at the Y work at "marginal jobs," with no sick leave and no benefits. If they have problems that are not debilitating, they "just keep going" until it gets serious.

With this clinic, which operates Monday evenings after work hours, the residents will no longer have to wait until a crisis to seek health care, said O'Brien. "The guys need it," he said.



CITY OF CAMBRIDGE DEPARTMENT OF TRAFFIC & PARKING

By force of the power vested in me by Special Act of the Legislature of 1961 (Chapter 455), I hereby amend the Traffic Regulations of the City of Cambridge by adding the following regulation.

REGULATION NO. 90-14
 Regulation No. 65-1 Schedule RD "Parking Prohibited At All Times On Certain Sides of Certain Streets, Tow Away Zone" (Handicapped Persons and Disabled Veterans) is hereby amended by adding the following:
 Cadbury Road, north side, 160' west of Wood Street to 194' west of Wood Street.
 This regulation shall take effect 19 June 1990.
 PREMULGATED
 DATE: May 22, 1990

George Teso, Traffic Director (C)May31_June7,14

We're Running A Special On Apples.

You won't see a special like this very often. Simply invest in a Certificate of Deposit (CD) at Somerset Savings Bank, and you can tap into the power of an Apple® computer for your home, business or school.

APPLE CHOICES	10 YEAR	9 YEAR	8 YEAR	7 YEAR	6 YEAR	5 YEAR	4 YEAR
Apple IIc Plus Color Monitor w/Appleworks	\$ 4,400	\$ 5,000	\$ 6,000	\$ 7,200	\$ 9,100	\$11,900	\$17,000
Apple IIc Plus Color Monitor w/ImageWriter II Printer	\$ 6,500	\$ 7,500	\$ 8,900	\$10,800	\$13,500	\$18,000	\$25,000
Apple IIIGS Color Monitor w/ImageWriter II Printer	\$10,200	\$11,800	\$13,900	\$17,000	\$21,000	\$28,000	\$39,000
Apple Macintosh Plus w/ImageWriter II Printer	\$10,400	\$12,000	\$14,200	\$17,100	\$22,000	\$28,100	\$40,000
Sylvania VHS Movie-Maker Camcorder	\$ 4,500	\$ 5,200	\$ 6,100	\$ 7,400	\$ 9,300	\$12,200	\$17,100

There are numerous options to choose from—each earning 8 percent simple interest—with investment terms ranging from four to 10 years.

Depending on the length of time until the CD reaches maturity, and the amount of your deposit, you can have your pick of four Apple computers and accessories (or a Sylvania VHS Camcorder).

The chart above lists the various certificates, deposit amounts, and accompanying Apple choices. So if you'd like one of the most popular and widely-used personal computers for your very own, then cash in on these apples. At your nearest branch office of Somerset Savings Bank.

Somerset Savings Bank
 Somerville • Burlington • Your Community Banking Center

Somerville: 212 Elm Street, 40 Union Square, 105 Broadway, 691 Broadway
 Burlington: 40 Mall Road (617) 625-6000

We are participants in various state and federal lending programs for which you may qualify. Contact the Bank for details.

There is a substantial penalty for early withdrawal. Offer is subject to change without notice. Apple, the Apple logo, Macintosh, and ImageWriter are registered trademarks of Apple Computer, Inc. Appleworks is a trademark of CLARIS Corporation.

"POWER LINES OFF THE STARBOARD BOW!"

Hauling your boat to the launching ramp can be an experience filled with the eager anticipation of sailing in the sun. Don't let it be a disaster.

Check your route before you go and be on the lookout for power lines and other possible obstructions. If necessary, chart another course.

Insure smooth sailing before you get underway. Make a dry run first.

COM Electric
 CAMBRIDGE ELECTRIC LIGHT COMPANY
 COMMONWEALTH ELECTRIC COMPANY

The Committee on Ordinances conducted a series of public hearings as well as informal meetings for the purpose of discussing a proposed amendment to the Municipal Code relative to the regulation of Street Performers within the City of Cambridge.

The formal meetings of the committee were held on April 11th, April 27th, May 1st and June 7, 1990 in the Sullivan Chamber, City Hall, with the exception of the meeting held on April 27th, which was convened at Holyoke Center Plaza, Harvard Square.

The informal, information gathering, meetings were held on May 22nd and May 30, 1990 in the Ackermann Room, City Hall.

Members present at these various meetings were: Councillor Francis Duehay, Mayor Alice Wolf, Vice-Mayor Reeves, Councillor Myers, Councillor Russell, Councillor Walsh, Councillor Toomey, City Clerk Joseph E. Connarton and Deputy City Clerk John Flynn.

At the outset of these hearings, Councillor Duehay, Chairman of the Committee, outlined the procedure to be followed for public hearings and at various times indicated that this was a very difficult area for which regulations were being drafted and that it was his hope that some of the more difficult concerns and objections on both sides of the issue could be resolved.

Throughout the process, the committee heard from a number of street performers as well as observing several performers in and around the Harvard Square area. Furthermore, in addition to the testimony of the performers, the committee heard from and received written communications from the performers Attorney, Dianna R. Stallone of the firm of Powers and Hall, P. C., 100 Franklin Street, Boston, Massachusetts 02110.

Representing the City of Cambridge on this proposed amendment were Donald Drisdell, Esquire, Deputy City Solicitor and Birge Albright, Esquire, Legal Counsel.

The original ordinance amendment, as drafted by the City Solicitor's Office, had been requested by the City Manager following discussions with Attorney Stallone and members of the Street Artists Guild during which it was determined that the current regulation affecting street performers might, in part, be unconstitutional. Given the fact the City Solicitor's Office indicated that the city could be vulnerable to a legal challenge.

During the public hearings the committee received testimony from both the street performers and neighborhood residents expressing concern with various aspects of the proposed amendment; the performers wishing more freedom of expression on a broader scale and residents voicing their concern over their ability to enjoy the peace and quiet of their home.

The major area of disagreement among the performers, as stated by their attorney, were: the measurement of decibel levels during their performances, the level of fairness of enforcement of the ordinance and the times during which the street performers may operate.

Neighborhood residents within the Harvard Square area stated they were not opposed to reasonable performances during early evening hours, but did not want to be subject to loud noise, i.e. bongo drums etc. at 11 P. M. or 12 P. M. The neighbors addressed the current Noise Ordinance and suggested some modification of same as an effort to measure the decibel levels within a residence.

Councillor Myers expressed some concern relative to measuring noise levels within a residence stating that a very high decibel reading could be

taken in a home, but that the noise level could be coming not only from the performers but background, general city noise, (trucks etc.) as well.

Throughout the discussions held by the Chair, both formal and informal, attempts were made to address and resolve these issues, with the City Solicitor's Office, in conjunction with the street performers Attorney providing to the committee several draft amendments. The final draft, dated June 7, 1990, was submitted to the Ordinance Committee at its meeting held that day and was discussed by Council members. During the discussions the Deputy City Solicitor suggested, in response to a request from the Attorney representing the street performers, that the proposed ordinance be amended further on page 4 in section E-4, by striking the word "mean" and inserting the word "median." Furthermore, he suggested that language should be added to the ordinance which states "that a street performance under this ordinance, shall be presumed not to be considered as a disturbance of the peace." He stated this language already exists within the regulation issued by the Traffic Department regarding this issue. He suggested that this language be entitled Section I and change the current Section I to Section J.

Councillor Duehay asked if members had objections to the amendments; no objections being heard the amendments carried on a voice vote.

Finally, Attorney Drisdell stated that the last objection the performers had to the pending ordinance was in Section E-1 on page 3 relative to performers being excluded within 100 feet of a school, they requested the word "public" be added. The committee discussed this, but did not take action on this request.

Councillor Sullivan moved to amend Section E-2 on page 3 by striking "12:00 A. M." on Friday and Saturday and inserting "11:00 P. M."

The motion -

Carried.

Both Councillor Russell and Councillor Walsh stated they were in support of a reasonable ordinance, but remained concerned that the residents receive equal protection to peace and quiet of their homes.

Councillor Sullivan moved that the proposed amendment as amended be referred to the full City Council without recommendation.

The motion -

Carried.

The hearing was adjourned at 7:01 P. M.

It should be noted that at this time Dianna Stallone, Esquire, Attorney of Record for the Street Performers, attempted to address the committee to speak to the proposed amendments which the committee had considered.

The Chair ruled that the committee had discussed the proposal for several months, had received both written and oral testimony and that the committee had decided to forward the final draft as amended to the full City Council.

For the Committee,

Councillor Francis H. Duehay,
Chairman

INDEX OF TESTIMONY

Those individuals who provided testimony orally or in written form are as follows with their written testimony incorporated herein:

1. Dianna R. Stallone, Esquire
Powers and Hall
100 Franklin Street
Boston, MA 02110
APPENDIX A & B
2. Steven Friedman
115 Central Street
Boston, MA
APPENDIX C
3. Bruce Travis
60 Brattle Street
Cambridge, MA 02138
APPENDIX D
4. Charles G. Thomas, Esquire
P. O. Box 477
Cambridge, MA 02238
APPENDIX E
5. James T. McDavitt, Chair,
Cambridge License Commission
APPENDIX F
6. George Teso,
Director of Traffic and Parking
City of Cambridge
APPENDIX G
7. William Sommers
Commissioner, Public Works
City of Cambridge
APPENDIX H
8. Annabelle Hebert
Executive Director
Cambridge Arts Council
APPENDIX I
9. Michael J. Barrett
State Senator
Middlesex-Suffolk District
APPENDIX J

10. Sharrahan Williamson
237 Franklin Street
Cambridge, MA
11. Jonathan Backstrom
237 Franklin Street
Cambridge, MA
12. Richard Goodman
561 Franklin Street
Cambridge, MA
13. Alexander Feldman
24 Garden Street
Cambridge, MA
14. Marty Sexton
19 West Pond Terrace
Brookline, MA
15. Kevin McNamara
Somerville Avenue
Somerville, MA
16. Stephen Baird
14 St. Rose Street
Jamaica Plain, MA
17. Chris Connaire
197 Franklin Street
Cambridge, MA
18. David Lesin
55 Norfolk Street
Cambridge, MA
19. Luke Hunsberger
20 Sargent Street
Beverly, MA

20. Tobi Sznajderman
498 Old Bedford Road
Concord, MA

21. Karen Larsen
7 Austin Park
Cambridge, MA

22. John Kenney
46 Bigelow Street
Cambridge, MA

23. Daralyn Kahn
115 Mt. Auburn Street
Cambridge, MA

2.

COMMITTEE REPORT.

Report from Ordinance Committee on the
proposed amendment to the Municipal Code
to regulate Street Performers.

In City Council,

June 11, 1990

Report accepted

&

*Amendment passed
to a second
reading as
amended.*

Powers & Hall
Professional Corporation
100 Franklin Street
Boston, Massachusetts 02110-1586
Attorneys at Law
617-728-9600
Facsimile 617-728-9633

April 11, 1990

To the Honorable Cambridge City Council and
 The Honorable Mayor Wolf:

The Street Artists' Guild supports the proposed Street Performer's Ordinance, which was drafted in conjunction with the City Solicitor's Office. The Street Artists' Guild does have some concerns relating to selected portions of the draft Ordinance.

We believe that the attached proposed changes are appropriate and necessary to the protection of the constitutional rights of the citizens and to correct an error in the original submission. With the council's permission, we are submitting this statment of reasons in support of the proposed changes.

1. With respect to the Amendment regarding the measurement of decibels, the original draft erroneously states that the performers may not generate noise exceeding 80 decibels. The Ordinance should prohibit noise which is above "a mean sound level exceeding 80 decibels..." The mean level is the standard manner of measuring musical performances, which tend to peak momentarily at higher sound levels (unlike a jack hammer or construction noise which would stay at a steady level). The current draft would probably exclude most musical performances, even those played at a reasonable level. The proposed amendment also sets forth the manner of measuring the mean level, which was also inadvertantly left out of the original draft, but is a standard and accepted manner of measuring sound levels. (See Attachment 1, relating to Section E3).

To the Honorable Cambridge City Council and
The Honorable Mayor Wolf
April 11, 1990
Page 2

2. The second change we would recommend relates to police enforcement. (See attachment 2, relating to Section E4). We would recommend that the ordinance omit the last sentence and modify the second to last sentence to make it clear that police must use the least restrictive means of keeping the public order, as is required by the Constitution. At least one court has expressly stated that the police should not be allowed to tell a performer to leave a location. Rather, the police should use the least restrictive means of moving along any portion of the crowd that is causing a problem. See, Davenport v. City of Alexandria, Civil Action No. 81-709-A (involving street performances) wherein the court stated:

While there is testimony that some merchants complained of a blocking of the sidewalks in the affected two block area, and the City Manager testified that on one occasion he had to walk in the street to avoid a gathering for a street performer in that area, the court is unpersuaded that there is any actual safety endangerment, any real impediment of pedestrian traffic or any substantial interference with patrons of business even in the affected area. Some pedestrians may have been inconvenienced or even annoyed, but this reason for the total ban is outweighed by the preferred position of plaintiff's First Amendment rights.... It is conceded that, particularly in the peak hours, the vehicular traffic on the streets is substantial and congested. Even if a safety problem arose from a person occasionally having to walk in the street (presumably between parked cars, since parking is permitted on the blocks in question) it is a problem which could adequately be resolved by the less restrictive method of having police direct the infrequent crowd members to move on.

Our Amendment would preserve the constitutional standard and make it clear that the police may not adopt a total ban on a performance. The current language allows too much police discretion to interfere with the constitutional rights of the

To the Honorable Cambridge City Council and
The Honorable Mayor Wolf
April 11, 1990
Page 3

performers. There is no clear and convincing evidence that a real safety problem exists. In fact, three veteran performers, each with over 10 years experience in street performing, will testify that they have never once heard of an injury to a pedestrian caused by a Street Performer. We do not anticipate that the City will demonstrate a single instance documenting a causal relationship between a street performer and an injury to the public.

Further, the alleged safety problem of people walking in the streets is more illusory than real. To be sure, people regularly walk in the streets in Harvard Square, with or without performances by Street Artists. The very nature of Harvard Square is that pedestrians are everywhere. At no time do police enforce the existing jaywalking laws to prevent the alleged hazard of people in the streets. This is because the fact that people regularly walk in the streets has not caused a significant safety problem. If it did, the police would presumably enforce the law. Yet the possibility of people walking in the streets is repeatedly referred to as the justification for restricting the Constitutional Rights of Street Artists. This restriction of Street Artists' rights is arbitrary and irrational and is not truly required by any compelling state interest.

On the other hand, the City Council will hear evidence of problems with arbitrary police enforcement of the current ordinance. In light of the evidence of police abuse, the total lack of evidence of a real public safety problem, and the court's decision in the Davenport case, the Street Artists' Guild recommends the amendment in Attachment 2.

3. The final and most important change relates to the restrictive times included in the ordinance. The Street Artists' ability to reach their audience is unduly restricted by the time restrictions in the draft Ordinance. The Guild recommends time restrictions of 11:00 p.m. for Sunday through Thursday nights and 12:00 p.m. on Friday and Saturday nights. These restrictions are appropriate and realistic. Similarly, the 7:00 a.m. starting time requested by the Guild reflects the current practice and enables the Street Performers to reach a substantial audience during the morning rush hour (see Attachment 3 relating to Subdivision E2).

To the Honorable Cambridge City Council and
The Honorable Mayor Wolf
April 11, 1990
Page 4

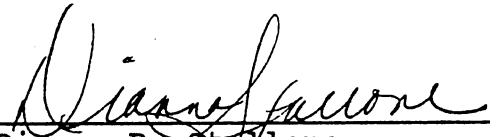
The reduction of decibel levels adequately protects any legitimate competing interests. The decibel level restriction ensures that sound levels will be low enough to blend into the ambient noise level at a distance of 50 feet. In light of this restriction, the current draft unreasonably prevents performances at the very times when the optimal audience will be reached. The Street Artists have been playing at these times in the past. The past restrictions were so unreasonable that the ordinance was not enforced. This change will provide realistic time restrictions which will allow for the ordinance to be enforced in a uniform and fair manner. Competing interests will be accommodated by the lower noise levels which will result from the noise restrictions and the availability of more space.

For all of the above stated reasons, the Street Artists' Guild requests that the Ordinance Committee adopt the proposed Ordinance regulating Street Performers with the attached amendments.

Respectfully submitted,

STREET ARTISTS' GUILD

By their attorney,



Dianna R. Stallone

Change Section E.3 on page 3 to read as follows:

No performer or group of performers may generate a mean sound level exceeding 80 decibels at a distance of 50 feet from the performer or group of performers. A performer or group of performers may use sound amplification as long as this mean sound level is not exceeded. The mean sound level shall be determined as follows:

Every ten seconds, on the mark, the A-weighted sound level on a sound level meter with slow response is recorded until 20 observations have been made. If, during any of these observations, a measurement is substantially affected by any source other than the performer or performers (such as aircraft overflight, close passage of a bus or truck, etc.), measurements made during these periods will not be considered. The observation period shall be extended until 20 valid measurements are obtained. Measurements should not be taken closer than 50 feet from the performer or performers. If, out of these 20 observations, 10 or more are at or below 80 decibels, then the performer or performers shall be considered in compliance with this ordinance.

Change Section E4 on Page 3 to read as follows:

4. A performer may not create an undue interference with the passage of the public through a public area. If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction, however, the police officer shall not cause the performer to leave the location.

Change Subdivision E(2) to read as follows:

2. Performances may take place at the following times:

Sunday through Thursday, between 7:00 a.m. and 11:00 p.m.

Friday, between 7:00 a.m. and 12:00 p.m.

Saturday, between 7:00 a.m. and 12:00 p.m.

Powers & Hall
Professional Corporation
Attorneys at Law
100 Franklin Street
Boston, Massachusetts 02110-1586
617-728-9600
Facsimile 617-728-9633

May 30, 1990

To the Honorable Cambridge City Council and
 The Honorable Mayor Wolf:

Since my last correspondence, I have conferred with my clients relative to an alternate proposal regarding the pending Ordinance which is under consideration by the Ordinance Committee. I have the following requests for your consideration in drafting the new Ordinance:

1. In February, 1990, four months after this City was advised for the third or fourth time that the Regulation relating to street performances was unconstitutional, two of my clients, Marcello Rossi and Cyril Atef were arrested, pursuant to the Regulation. These street musicians were taken to jail, kept for three hours and required to post bail. The police officer did not show up for the hearing. Nevertheless, the street musicians were fined, \$100 each pursuant to the unconstitutional Regulation. (See Affidavits attached). The charge against my clients was breach of the peace. In light of this, I would request that you insert in the new Ordinance language, which is contained in the old Ordinance as follows:

Peace and Quiet

A performance in accordance with this Ordinance shall be presumed not to constitute a disturbance of the peace or quiet.

2. My clients have advised me that they object to the exclusion of all areas close to schools and libraries as places for performances. They have no objection to a provision that restricts performances within a certain area of

To the Honorable Cambridge City Council and
The Honorable Judge Wolf
May 30, 1990
Page 2

public schools. This is because the Cambridge Center for Adult Education is located in Harvard Square and would unreasonably restrict my clients rights. This is particularly problematic because the Cambridge Center for Adult Education is open late into the night and would have a disproportionate impact not intended by the wording of the Ordinance. The location of the Harvard School is also an obvious problem. There is no evidence that any school or library has ever complained against the street musicians. This is true even though my clients have been playing in close proximity to the schools and libraries in Harvard Square for many years. Accordingly, we would suggest that a restriction which is not limited to public schools or libraries is overbroad and unnecessary.

3. The musicians continue to strongly object to the measuring of decibels inside resident's homes. The musicians are prepared to challenge such a regulation as a violation of their Due Process rights and as an unreasonable restriction on their First Amendment rights. Instead, the musicians have suggested that the Council consider adopting the regulation of 80 decibels at 50 feet for a period of 90 days. By doing so, the Council could determine, through practical experience, whether or not the 80 decibel level is in fact protecting the resident's rights, as well as the rights of all musicians to be heard.

4. We have previously suggested and we are repeating our request that the Ordinance regulate median levels of sound and not peak levels of sound. I am attaching to this letter information from my expert, Stephen Friedman, setting forth the reasons for the median sound level.

5. The Street Artist's Guild objects to any absolute ban on performances in Winthrop Park or in the Cambridge Common. If the Department of Public Works has a concern about grass when it is being newly seeded and wants to keep all people out of the park for a limited period of time, we do not see that that is something that needs to be addressed in the Ordinance regulating street performances. The public parks are

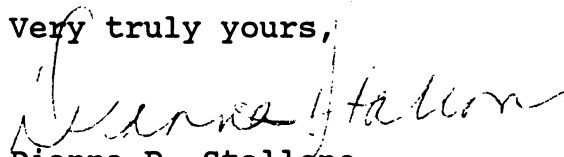
Powers & Hall Professional Corporation

To the Honorable Cambridge City Council and
The Honorable Judge Wolf
May 30, 1990
Page 3

historically and notoriously the proper place for the exercise of constitutional rights. The purpose of public parks is for the enjoyment of the citizens. People will be sitting on the grass at Winthrop Park and the Cambridge Common regardless of whether street performances are allowed. This item is particularly important because Winthrop Park and the Cambridge Common are favorite spots for people to gather and listen to street performances.

The Street Artist's Guild respectfully requests that the City take these items into consideration when drafting the new Ordinance. In addition, we would appreciate an opportunity to review the Ordinance and offer further suggestion prior to any formal hearing on the matter.

Very truly yours,



Dianna R. Stallone

DRS/lar
Enclosure

cc: Sharrhan Williamson
Stephen Baird
Don Drisdell, Esquire

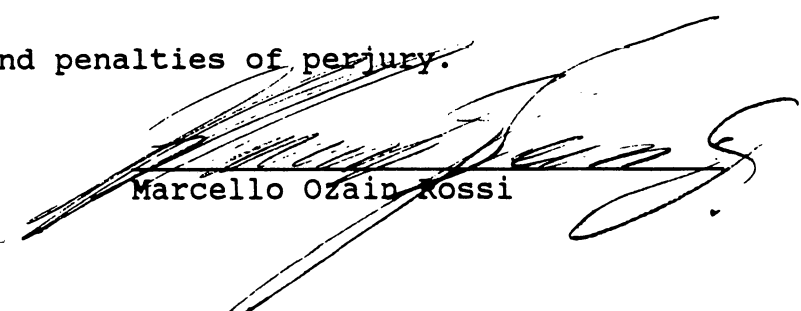
AFFIDAVIT OF MARCELLO OZAIN ROSSI

1. My name is Marcello Ozain Rossi and I am a resident of Boston, Massachusetts. I am a musician by trade.
2. On February 23, 1990 I was playing a conga drum at Harvard Square with another musician.
3. An Officer Bellissimo came up to me and arrested me for playing my drum. He announced that we did not have a permit to play. I told the police officer that we did have a permit. The officer refused to look at the permit. I started reading the permit aloud and the officer said the permit was invalid because no percussion instruments were allowed. The officer did not tell us that we were not in a designated spot or that we should move to another area.
4. We started playing again and the officer came up grabbed me, jerked my arm around my back and then arrested me. He said I was disturbing the peace. I was handcuffed. My partner, Cyril Atef was also handcuffed.
5. A Sargeant came along and stated that we were not in a designated spot. At this time, we were already handcuffed and did not have any chance to move to designated spot.
6. We were never given a map showing the designated areas where we should not play when we received our permit. We had no idea that there was any problem with the area in which we were playing. We were very surprised to be told that we should not be playing in this spot because we played at the same spot every weekend for several months last year. The police would ask us if we had a permit. As long as we had a permit, we were allowed to play.
7. We were taken to jail and kept for about three hours. We were required to post bail and the police officer kept our permit.

EXHIBIT 1

8. A hearing was held on February 26, 1990 and the police officer did not show up for the hearing. We were unrepresented by counsel and did not know how to make a challenge to the Regulation or how to defend ourselves. We were fined \$100 each even though the police officer did not show up.
9. I know that other musicians have played drums and percussion instruments both in and outside of designated areas and they have not been arrested.
10. I am of Latin-Indian descent. The music we play has a distinctly ethnic sound. We believe that our arrest was discriminatory and in violation of our Civil Rights.

Signed under pains and penalties of perjury.


Marcello Ozain Rossi


AFFIDAVIT OF CYRIL D. ATEF

1. My name is Cyril D. Atef and I am a musician by trade.
2. On February 23, 1990 I was playing a drum at Harvard Square with another musician.
3. An Officer Bellissimo came up to us and requested that we stop playing and we did. He immediately announced that we did not have a permit to play. My partner, Marcello Rossi, told the police officer that we did have a permit. The officer refused to look at the permit. Marcello started reading the permit aloud and the officer said the permit was invalid and that no percussion instruments were allowed. The officer did not tell us that we were not in a designated area or that we should move to another area.
4. Marcello started playing a shaker and the officer came up and grabbed Marcello and put handcuffs on him. I started to play too and was also handcuffed and arrested.
5. A Sargeant came along and stated that we were not in a designated spot. At this time, we were already handcuffed and did not have any chance to move to designated spot.
6. We were never given a map showing the designated areas where we should not play when we received our permit. We had no idea that there was any problem with the area in which we were playing. We were very surprised to be told that we should not be playing in this spot because we played at the same spot every weekend for several months last year. The police would ask us if we had a permit. As long as we had a permit, we were allowed to play.
7. We were taken to jail and kept for about three hours. We were required to post bail and the police officer kept our permit.

EXHIBIT 3

8. A hearing was held on February 26, 1990 and the police officer did not show up for the hearing. We were unrepresented by counsel and did not know how to make a challenge to the Regulation or how to defend ourselves. We were fined \$100 each even though the police officer did not show up. We went to the Records Department at the Police Station to get our permit back. The Officer had not turned in our permit and we never did get it back.
9. I know that other musicians have played drums and percussion instruments both in and outside of designated areas and they have not been arrested.
10. I am of French-Iranian descent and my partner is of Latin-Indian descent. We believe that our arrest was discriminatory and in violation of our Civil Rights.

Signed under pains and penalties of perjury.



Cyril Atef

April 21, 1990

To the Honorable Cambridge City Council and
Honorable Mayor Wolf:

RE: Proposed Street Performers' Ordinance

As a professional sound recording engineer, I have been asked by the Street Artists' Guild to explain why we do not propose to use either the "peak" or the "average" sound levels as regulatory criteria, and why we instead propose to use the "^{Median}L₅₀" sound level.* I will also explain what is meant by ^{Median}L₅₀.

Peak readings are impractical for regulatory purposes because they occur randomly, and are of short duration. This makes them difficult to measure accurately. Also, it is unlikely that any one set of measurements will "catch" the true peak. Finally, since almost every noise source in a city has occasional high peaks, any ordinance based on peak levels would render most activities illegal.

Average readings are more accurate because momentary fluctuations and measurement errors "average out." Also, while a performer's peak level may vary, their average level is not likely to change much over time, so a single set of readings will be applicable for all times. Unfortunately, the calculations required to compute an average cannot be conveniently performed "in the field," especially since decibels are logarithmic, and cannot be averaged like ordinary numbers. For example, 80 decibels and 60 decibels average out to 75 decibels, not 70, because 80 decibels is 10 times the sound pressure level of 60 decibels.

The method we propose gives results similar to an average, but requires no calculations. A number of readings are taken (20) and if more than 50% of them are above a certain reference level (80 decibels at 50 feet) then the ordinance has been violated. Because we use 50%, the reference level is called L₅₀.

Note that the existing Cambridge noise ordinance uses a similar method based on "L₁₀". 100 readings are taken, and if 10% exceed a certain reference level, then the ordinance is violated. Since few musical pieces last long enough for 100 readings, we propose the L₅₀ method, which requires fewer readings for an accurate result.

Respectfully submitted,

Steven Friedman
Steven Friedman

*As of this writing (April 21) the proposed ordinance describes ^{Median}an ~~L₅₀~~ sound level criterion, but incorrectly calls this level the "mean." A separate document correcting this error in terminology is being submitted.

April 21, 1990

To the Honorable Cambridge City Council and
The Honorable Mayor Wolf:

RE: Proposed Street Performers' Ordinance

As a professional sound recording engineer, and having been asked by the Street Artists' Guild to help draft the proposed Street Performers' Ordinance, I wish to correct an error in terminology in Section E.3 of the proposed ordinance.

In every case where the words "mean sound level" appear, they should be changed to read "^{median}~~mean~~ sound level."

This new wording is the professionally customary, and mathematically correct way of describing the method of sound level measurement described in the second paragraph of Section E.3.

This change in no way alters the content or implications of the proposed ordinance, but it is necessary that this change be made in order to avoid any confusion that incorrect terminology could create.

Respectfully submitted,


Steven Friedman

60 Brattle Street
Cambridge, Massachusetts 02138
April 30, 1990

Councillor Francis H. Duehay
Chair, Ordinance Committee
Cambridge City Council
Cambridge City Hall
975 Massachusetts Avenue
Cambridge, Massachusetts 02139

Dear Councillor Duehay and Members of the Ordinance Committee:

Thank you for the opportunity to express my concerns about the proposed Street Performers ordinance at your meeting two weeks ago. I appreciate your decision to keep it in committee until a full review and revision can be carried out. I also found the decibel level testing which Councillor Myers arranged for this past Friday evening very helpful in understanding the real impact of the proposed ordinance.

I believe that in its present form, the Street Performers ordinance does not adequately protect the rights of Cambridge residents to freedom from disturbances of the peace and quiet and other nuisances caused by unwanted musical sounds. I would like to raise a number of serious questions about the ordinance, most of which I did not ask at your meeting. I hope that you will find these questions helpful as you work with the city's legal department to revise the proposed ordinance.

As I understand it, there are three major ways in which the proposed ordinance does not yet meet the test of protecting the rights of residents to peaceful enjoyment of their homes, while providing for reasonable expression of First Amendment rights by performers. First, the proposed ordinance opens up all of Cambridge to street performances and puts the burden on residents to go through the process of having the area around their homes excluded. Second, it suspends the protections of the city's Noise Ordinance which would prohibit unwanted musical sounds within residential zones and those sounds which "spill over" zone boundaries and property lines. Third, by these steps, it prevents residents from using the subjective provisions of the Noise Ordinance (8.16.020.16a-e and 17, 8.16.050.C, I and J) to stop unwanted musical sounds which measure below the objective standard of 50 dB and yet are experienced as a disturbance of the peace and quiet.

In this letter, I'll begin by describing some of the legal questions I feel are raised by the proposed ordinance. Then I will point to what I see as its specific problems. After predicting some of the negative consequences of the ordinance, I will try to respond to your request for proposed solutions by describing how the proposed ordinance might be revised.

In a larger sense, however, I feel that the issue here is not only one of legal rights and technical solutions to a complex problem, but also of what it means to share the responsibility of living, working

and playing in close proximity to others. What kind of relationships of mutual respect make our neighborhoods liveable, and how can good laws help us learn to share common space better? It's my hope that in creating what an ordinary, reasonable Cambridge resident feels is a fair ordinance, we will arrive at a model that other communities will find helpful and that will allow all of us to live together in peace.

* * *

LEGAL QUESTIONS: FREE SPEECH AND NEIGHBORHOOD RIGHTS

I would like to raise some legal questions which seem to apply to the proposed ordinance. - I've referred to individual cases or precedents only to suggest that these and other similar cases might be worth looking at. I look forward to hearing your answers to these questions.

Are there precedents for restricting the volume and manner of expression of political speech if it disturbs the peace of residential neighborhoods?

Here are two cases to consider. In *U.S. Labor Party v. Pomerleau* (557 F.2d 410, CA MD 1977), those advocating a political position in a public place were found to be entitled to speak only in a manner similar to "the sounds encountered daily in the most tranquil community", which seems to me to describe ordinary conversation on a sidewalk which is not audible within residences. In another case involving sidewalk picketing accompanied by disturbing noises in a residential neighborhood, (*Frisby v. Schultz*, 101 L.Ed.2d 420, US WIS 1988), the court found that there was a "significant governmental interest" in "protecting residential privacy". The court upheld picketing as constitutionally protected speech, but defined prohibited forms of picketing as those producing "speech directed primarily at those who are presumptively unwilling to receive it", the court also holding that "there is no constitutional right to force speech into the homes of unwilling listeners". There seems to say that no one is required to listen to political speech of 50 dB or any other lower level if they don't wish to, and if they find it to be a disturbance of their peace and quiet.

Are there precedents for restricting the time and geographical location of expression of political and other speech if it disturbs the peace of residential neighborhoods?

In *Beckerman v. City of Tupelo* (664 F.2d 502, CA MISS 1981), the court held that a community can define a "deservedly protected actual residential area" from disturbances to peace and quiet which can be defined as "compelling needs of society". In addition, the court held that in granting permits, the city could require applicants to demonstrate the actual sound level of their speech. In a case dealing with a rock concert promoter (*Jim Crockett Productions v. City of Charlotte*), 706 F.2d 486, CA NC 1983), the court permitted the city to regulate "the specific

permissible volume of sound that could be permitted at very specific geographical points and at designated hours." In *Gay Student Services v. Texas A & M* (CA Texas 1984), zoning of speech was found permissible if it served a compelling state interest, was narrowly drawn and content-neutral, and regulated the time, place and manner in a way that left open "ample, alternative channels of communication" to the speakers. Have the courts ruled in other cases on the meaning of "ample, alternative channels of communication" as applied to cases involving political or artistic expression in residential neighborhoods or areas close enough for sound to spill over and cause a disturbance of the peace?

Are municipalities required to use the least restrictive means in relocating or limiting political expression?

In *Jim Crockett Productions v. City of Charlotte*,^{the court} answered that "the least restrictive means of regulation" is not required, and the court required "only that the reasonableness of the decision be viewed in light of less drastic means for achieving the same basic purpose". This seems to mean that cities can seek a middle ground that is reasonable, and that the solution needs only to stand the test of reasonableness. This finding seems to contrast with the approach described by City Manager Healy in his letter of March 23, 1990 in which he stated that regulation of the proposed Street Performers ordinance must be "accomplished by the least restrictive means available".

What reasons would a municipality have to provide to justify yielding its authority to enforce reasonable noise control standards for residential neighborhoods?

Section H of the proposed ordinance rules out application of the Noise Ordinance (Chapter 8.16) anywhere in Cambridge except in areas to be excluded later, in response to requests from residents and city officials. The Noise Ordinance carefully defines sound disturbances both objectively, in decibels, and subjectively, prohibiting any "nonmeasured pollution acts" which "create or cause to be created loud and unnecessary noises which...are not readily subject to measurement" (8.16.020.17). It also prohibits "yelling, shouting, hooting, whistling or singing on the public streets...at any time or place so as to annoy or disturb the quiet, comfort or repose of persons..." (8.16.050.C). This comprehensive use of objective and subjective provisions, curfews and geographical limitations follows the guidelines recommended by experts in the field (Noise Control: a Handbook of Principles and Practices, ed. David Lipscomb and Arthur Taylor, pp. 281-284). In particular, the subjective provisions protect residents against disturbances of the peace caused by sounds which may not meet the objective decibel measure, but which a reasonable resident would consider a disturbance of the peace.

What rational basis would the city have for overriding the protections of such a vital and carefully drawn ordinance, provided

that the city also provided "ample, alternative channels of communication" to street performers? With regard to the city's zoning plan, which establishes residential boundaries, what rational basis would there be for not recognizing these boundaries when it comes to street performances and unwanted musical sounds, but continuing to recognize them in all other cases, which is the effect that the proposed ordinance would seem to have. It seems to me that the city would have to demonstrate an overwhelming and far more compelling case for dropping these safeguards than the proposed ordinance describes.

Is there a precedent for giving artistic expression broader protection than is granted to political speech under the First Amendment?

If there is such a precedent, then it would be helpful for the city's legal department to provide it. If not, then precedents applying to political speech, which seems to be the most constitutionally protected form of speech, would be the guidelines for regulating the manner and volume of sound produced by street performers, as well as location and time limitations.

SPECIFIC PROBLEMS OF THE PROPOSED ORDINANCE

1. Section H, "Exclusivity" seems to be one of the most problematic sections of the entire proposed ordinance. As I've stated above, it exempts the entire city from the Noise Ordinance. Are there any other city regulations, including the zoning plan, that would be thrown into question by this section? If you decide to uphold this section of the proposed ordinance, I hope that you will state the rational and compelling basis for doing so.
2. Section A.3. The phrase "all public ways" allows performances on any public sidewalk in Cambridge unless excluded by Section F.
3. There is no reference to the city's regulations concerning disturbances of the peace and quiet, as there were in Section 7 of the old ordinance.
4. Section F, "Exclusion of public areas", seems vague and undefined, and puts residents in the difficult position of having to listen to unwanted musical sounds until they can get areas near their homes excluded from performances, requiring considerable outlays of time and perhaps money. Any adequate ordinance, it seems to me, needs to start by recognizing that the entire city of Cambridge is covered by the Noise Ordinance and all other relevant regulations, unless specific areas are excluded from this protection by a Street Performers ordinance. That would seem to be a more common-sense way to proceed.

5. Section E.3. The 80 dB level does not take into account the necessity of conforming to the Noise Ordinance's provisions for the boundaries of residential zones and property lines. It does not define peaks, maximums, or other measurement procedures for sound levels. No rationale seems to be stated for the selection of 80 dB, which is considered to be approximately 8 times the volume of sound at 50 dB. Since it has been found that sound diminishes at approximately 6 dB per doubling of distance beyond 50 feet, the 80 dB limit seems destined to conflict with the Noise Ordinance. (Leo Beranek, Noise and Vibration Control, p. 181).
6. Section F also seems to establish one organization as receiving special notice about the ordinance. Is there any precedent in the city's codes which gives such standing to any corporation, business or non-profit group?
7. Section G, "Penalties" does not seem to specify who is granted authority to measure dB levels as part of the enforcement of the ordinance. Presently the Licensing Commission does this. Wherever this authority is located, will a unit be created, trained and funded to provide residents with adequate enforcement? Also, there is no provision in the proposed ordinance for a manual of enforcement procedures or a map of geographical locations for performances. They as well as residents nearby need to know the time, place, and manner of limitations, as well as the "ample, alternative channels of communication" provided.

PREDICTABLE NEGATIVE CONSEQUENCES OF THE PROPOSED ORDINANCE

1. The proposed ordinance will allow street performances anywhere in the city and puts all residents at risk of having to appeal for exclusion of areas around their homes.
2. Residents will not be able to use the subjective provisions of the Noise Ordinance to protect themselves from unwanted musical sounds which are below 50 dB but still constitute a disturbance of the peace.

These subjective provisions need to be maintained especially because of the unique way that the sound produced by different musical instruments actually travels. Horns, bagpipes, drums, and other musical instruments at very low and very high frequencies can often be heard clearly at great distances even though they fall below 50 dB. It is also probable that they can't be voluntarily quieted by performers to levels acceptable to them as artists.

3. "Population pressure" and the wording of Section E.5 will force performers to move closer to and into residential zones.

While the provisions of this section make sense from the perspective of performers, they also create a dilemma of human ecology. Fifty-foot spacing is a considerable distance in the crowded spaces of Brattle Square and other areas, and there are many more hopeful performers than spaces most weekend nights. Performers have said that they depend on contributions from spectators, so they will probably tend to locate where there is an audience. Pedestrians are still frequent on Brattle St. sidewalks from Sage's down to Hilliard St., and it is likely that some performers will set up there, as they have sometimes done in the past

WHAT NEEDS TO BE DONE: PROPOSED SOLUTIONS

Since several members of the ordinance committee asked me for my ideas, I would like to propose some tentative ways of responding to the problems I've described. While my preference would be to build provisions for street performances into the Noise Ordinance, I'll try to focus here on how the proposed separate Street Performers ordinance could be reworded to meet the needs of residents and performers. I'd appreciate hearing any and all other proposed solutions that could make the ordinance stronger.

1. Strike out Section H, "Exclusivity" and Section A.3.
2. Add the phrasing "unwanted musical sounds" wherever necessary and consistent to the Noise Ordinance.
3. Replace Section H with wording creating defined Performance Districts throughout the city in locations where residents' rights to peace and quiet will not be affected.

This approach should assume that all residential areas are protected by the Noise Ordinance, zoning plan and any other relevant regulations. The basic concept of the Performance District is similar to that of the "overlay" zoning district.

4. Gather survey information on the impact of unwanted musical sound on residents to determine the boundaries of Performance Districts.

This includes not just measuring sounds on the street at residential and property line boundaries, but also inside the homes of residents who are affected. This should include residents in non-residential zones, students, workers at nearby businesses, and visitors at hotels; their opinions and the sound levels where they live and work are important.

5. Within Performance Districts, set differing decibel levels at different geographical locations.

Some instruments generate louder sounds than others, so in order to stay within the very reasonable 50-foot spacing for performers, quieter instruments could be asked to perform closer to the edges of the Performance Districts where they would not disturb nearby residents; louder instruments could play in the center. If there still turn out to be too many performers for the common spaces designated at the Performance Districts, creative licensing arrangements (such as used for wilderness areas) might be devised. "Ample, alternative channels of communication" does not in my view mean unlimited channels, but I think it should be possible to create Performance Districts in several areas to meet what the courts seem to require in this respect.

6. Make standards of enforcement and designated locations clear to one and all with enforcement directions and maps, as well as signs at performance locations indicating the boundaries of Performance Districts.

This would protect performers who are not aware of the city's ordinances.

7. Create a sound control unit either in the Police Department or other appropriate agency, and fund it.

* * *

In conclusion, I'm hopeful that the outcome of this process will be a model Street Performers ordinance, along with appropriate modification of the Noise Ordinance. I hope that the questions, issues and proposed solutions I've offered will be helpful to you. Thank you for keeping the proposed Street Performers ordinance in committee until you are satisfied that it is the kind of legislation you want all Cambridge residents to live with.

Sincerely yours,

Bruce Travis

Bruce Travis
354-7417

E

CHARLES G. THOMAS
ATTORNEY AT LAW
Post Office Box 477
CAMBRIDGE, MASSACHUSETTS 02238-0477
Telephone 617-492-8831

June 5, 1990

Mr. Francis H. Duehay
Cambridge City Councillor
City Hall
Cambridge, Massachusetts 02139

Re: Proposed Noise Ordinance Amendment

Dear Councillor Duehay:

I am writing in reaction to today's article in The Harvard Crimson concerning proposed changes in the City's noise ordinance. Since I strongly object to the changes reported, I would appreciate it if you or the Chair would read this letter to the Ordinance Committee when it meets Thursday evening, bearing in mind that my letter is based only on the information contained in the newspaper article. I regret that I cannot attend.

According to the article, the proposed amendments would "allow street performers to perform anywhere in the city as long as the noise levels inside nearby residences [would not] rise above 60 decibels in the day and 50 decibels at night."

Allowing street musicians to perform in residential areas or adjacent to neighborhoods that are predominantly residential would be as unreasonable as it would be unnecessary. Cambridge residents are already beset by excessive and intrusive noise from many sources, severely degrading the environment. Most of those sources are beyond the reasonable control of the average citizen, as nuisance suits are time-consuming, expensive and emotionally draining. At the same time street musicians have more than adequate space in which to perform.

In this era of increasing awareness of the harm of cigarette smoke and the city ordinance that has responded to it, the Cambridge City Council should realize that

Mr. Francis H. Duehay
June 5, 1990
Page 2

unwanted noise, including music, intruding into the homes of Cambridge citizens is similar to smoke being blown into their faces or lights shining into their eyes. Indeed, on March 6th of this year The New York Times reported on the severe psychological as well as physical harm either excessive or unwanted noise causes to millions of Americans each year.

I ask the Cambridge City Council to remember that in this densely populated city, where many people live in small apartments and in buildings with thin walls and poor window systems, unwanted noise can mean a severe hardship. Street music played at lower than 50 decibels or even at the lowest audible level can be clearly heard in many dwellings, especially where the acoustical characteristics of the exterior walls of nearby buildings amplify sound.

I hope that the Cambridge City Council also realizes that there are many different kinds of music and people often have strong musical preferences. It is entirely unreasonable to require the citizens of Cambridge to listen to someone else's music, especially when it is playing in the open air in or near a residential neighborhood.

The existing ordinance already provides a balance between the unquestioned right of Cambridge citizens to a nuisance-free environment and the somewhat questionable right of street musicians to impose themselves on others. As someone who crosses Harvard Square on the average of six times a day, my observation is that the balance is struck liberally in the street performers' favor.

The existing ordinance has opened the busiest and most exciting public place in Cambridge to the best and the worst of performers. And the existing ordinance allows each one of them to alter the atmosphere for thousands of people who pass.

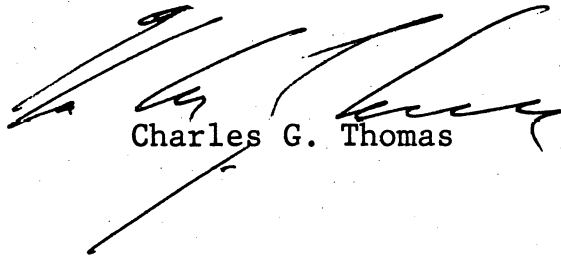
If there should be any amendment at all, it should expressly prohibit open-air music, from whatever source, day and night, in or near residential neighborhoods.

Mr. Francis H. Duehay
June 5, 1990
Page 3

In the meantime, the existing ordinance should be enforced.

Thank you for taking my points under consideration.

Sincerely yours,



Charles G. Thomas

cc: Cambridge City Council
The Cambridge Chronicle



CAMBRIDGE LICENSE COMMISSION CITY OF CAMBRIDGE

831 MASSACHUSETTS AVE., 1ST FLOOR, CAMBRIDGE, MASSACHUSETTS 02139 • TEL. 499-6140

JAMES THADDEUS McDAVITT
Commission Chairman

ANTHONY G. PAOLILLO
Chief-of-Police Department
Commission Member

THOMAS V. SCOTT
Chief-of-Fire Department
Commission Member

RICHARD V. SCALI
Commission Executive Officer

TO: Francis Duehay, Ordinance Committee Chairman
THROUGH: Robert Healy, City Manager
FROM: James McDavitt, License Commission Chair
RE: Proposed Ordinance On Street Performers
DATE: May 1, 1990

James McDavitt

At the April 11th Ordinance Committee hearing, it was requested that I put my testimony in writing; herewith, then, are my comments on the proposed ordinance on street performers.

I. ISSUING AUTHORITY

Where the proposed ordinance does not require any pre-licensing inquiry, it is more appropriate for the Arts Council to issue these licenses. The \$10.00 license fee would then be paid to the Arts Council. The Director and Deputy Director of the Arts Council and Deputy City Manager Richard Rossi concur in this.

II. LICENSING STANDARDS, PROCEDURES, CONDITIONS, REVOCATIONS, RULES AND REGULATIONS.

Attached hereto is the current statute on licensing entertainment, which generally is also a first amendment activity. (See Exhibit A). The standards and procedures for revoking an entertainment license, for imposing license conditions, and for establishment licensing rules and regulations are specified in the statute. These standards and procedures follow those in a Boston ordinance that was upheld by the First Circuit Court of Appeals, which also covers Cambridge. Fantasy Book Shop, Inc. v. City of Boston, 652, F 2d 1115 (1st Cir. 1981) on remand 531 F. Supp. 821 (D.C. Mass., 1981).

These standards and procedures are designed to balance the equities involved given the twin goals of promoting access for street performers and of abating nuisances caused by an unreasonable level of music noise. Using this statute

as a guide, I would recommend incorporating some standards and procedures for revoking licenses, for conditioning licenses, and for promulgating licensing rules and regulations. The License Commission could perhaps provide advice and assistance in this area, e.g., perhaps the License Commission instead of the City Council could determine the public areas where street performer's license may not be exercised either at all or during certain hours.

III. NOISE

Also attached is the current chart for determining unreasonable and therefore illegal noise levels. (See Exhibit B). It is anomalous to promote the first amendment rights of street performers if the City is going to force residents, retail patrons, and office workers inside buildings to listen to music which they would prefer to avoid but cannot. (Admittedly, the chart may be inadequate for evaluating the reasonableness of noise levels audible at outside locations. Also, the chart refers NOT to the average noise but to the maximum noise.)

For your additional review, I enclose a Sound Pressure Level Chart. (See Exhibit C). On the right hand side are listed typical dB(A) levels for various scenarios. The chart comes from Bruel & Kjaer, (B&K) the manufacturer of the Sound Level Meters which the License Commission staff uses. The Chart shows:

Typical dB(A)	Scenario
140	Threshold of Pain
About 126	Jet take off
About 110	Pop Group
About 100	Pneumatic Chipper
About 90	Heavy Truck
About 84	Average Street Traffic
About 64	Business Office
About 60	Conversational Speech
About 40	Living Room
About 38	Library
About 25	Bedroom
About 18	Wood
Zero	Threshold of Hearing

My experience in dealing with noise complaints over the past five years in Cambridge is harmonious with this chart, except that "Pop Group" music generally registers closer to 90-95 dB(A). It may be that a measurement very close to an amplifier is 110 dB(A), while further away from the amplifier it registers 90-95 dB(A).

Also enclosed are the results of the on-site readings taken last Friday evening, April 27th, in and around Harvard Square. (See Exhibit D). From these readings, I draw two conclusions:

1. It is fine to establish a rule that only outlaws street performer noise when it exceeds an average of 80 dB(A), AS MEASURED FIFTY FEET AWAY AT A LOCATION WHICH IS OUTSIDE IN THE PUBLIC WAY.
2. It is NOT advisable to omit regulations of noise which is audible and annoying to residents or business persons confined to a building.

The rationale underlying these two conclusions is that someone on the street who hears unwanted music noise can travel on. But a resident or business person inside a building is "trapped" -- there's nowhere to go to escape the music noise. Readings from April 27th show that music noise from street performers in the Harvard Square area can easily exceed 50 dB(A) in the residential apartment at 60 Brattle Street, and the music noise exceeds 60 dB(A) if the street performers are positioned across the street from this residential apartment.

It is, therefore, my advice that no street performer be allowed to create a noise level which exceeds 60 dB(A) in the "daytime" or which exceeds 50 dB(A) at other times. The readings would be taken from within a building which is at the time lawfully occupied by people, e.g., a residence or business office. (The term "daytime" is defined in the current Noise Ordinance as 7 a.m. to 6 p.m., Monday through Saturday.) This advice is harmonious with the intent of the existing Noise Ordinance. In taking these indoor readings, it seems fairer to me to stick with the concept in the current Noise Ordinance where a peak noise level is outlawed, as opposed to an average noise level.

A more strict alternative would be to outlaw the creation of noise levels which are "audible" within a lawfully occupied building. "Audible Noise" can be defined as "Noise which exceeds the background noise level by 5 dB(A)" or as "Noise which exceeds the background noise level by 10 dB(A)." The former definition is aimed at the threshold of audibility, whereas the latter definition is concerned with clearly audible noise. "Background Noise Level" in a music-noise case would be defined as "the noise level exceeded 90% of the time, determined while the source of the music noise is not in operation."

It should be noted that background readings should ALWAYS be taken, even if the goal is to determine whether a certain noise level is being exceeded. The rationale here is that, if the background noise level is 65 dB(A), it would be illogical to prosecute a street performer for creating a noise level of 65 dB(A).

Also, it should be noted that the License Commission Staff is unable to take sound level readings of street performers, due to an already burdensome workload. Moreover, in the opinion of Duff Kirklewski, the Sound Engineer

from B&K who advises the License Commission Office, readings taken by a Radio Shack "Realistic-Brand" Sound Level Meter will not be upheld in court if the meter is incapable of being calibrated on a regular basis. This Sound Engineer, based on his experience, suggested training one police officer or other person in the taking of sound level readings; the Sound Engineer added that one meter should be bought for the person so trained in order to avoid legal attacks upon the efficacy of a meter which is passed around from person to person.

IV. PRIOR PROPOSED ORDINANCE & SIDEWALK VENDORS

In closing, it should be pointed out that the currently proposed ordinance on street performers follows a prior proposal which has been described as "too strict" and "too comprehensive". This prior proposal emphasized the public safety orientation of city department heads; however, this prior proposal was never given a hearing before the Ordinance Committee.

One aspect of the prior proposal that may have been beneficial was its comprehensiveness. As the current proposal approaches the problem of activities in the public way in a piecemeal and therefore incomprehensive fashion, care should be taken, especially with regard to allowing street performers to sell merchandise on the sidewalk and/or to obstruct the sidewalk with tables full of merchandise. If the City should in the future wish to, e.g., review location of newspaper boxes in the public way, that may prove difficult if street performers selling merchandise and setting up tables are not subject to any substantive review. Also, I hope it never happens, but what could a handicapped person in a wheelchair or an elderly person do if the entire sidewalk were obstructed with musicians, patrons, and/or merchandise --- do we tell this person to go over the curb and into the street? A decision should be made whether the problem of obstructed sidewalks is real or merely theoretical.

V. CLOSING

In closing, please be advised that the License Commission and its staff are ready to be of further assistance if so requested.

cc: Anthony Paolillo, Police Chief
Thomas Scott, Fire Chief
William Sommers, Public Works Commissioner
George Teso, Director of Traffic and Parking
Annabelle Hebert, Arts Council Director
Gail Enman, Director, Council on Aging
Birge Albright, Assistant City Solicitor

Exhibit D

Readings taken include noise source (music)

April 27, 1990 @ 6:50 P.M.

Holyoke Center (see attached map)

(50 feet from noise source)

Instrumentation used:

Bruel & Kjaer Sound Level Meter Type #2231

Bruel & Kjaer Sound Level Calibrator #4230

	<u>LEQ</u>	<u>L99.0</u>	<u>L90</u>	<u>L10</u>	<u>L1.0</u>	<u>MAXL</u>	<u>MAXP</u>
Lin(A)	70.7	69.1	69.6	72.1	74.1	75.5	91.8
	first band @ 7:10 P.M.						
Lin(A)	74.6	71.6	72.6	77.1	81.1	81.9	99.0
	second band @ 7:25 P.M.						
Lin(A)	73.9	70.6	71.6	75.6	77.6	77.9	91.2
	third band						

Readings taken include noise source (music)

April 27, 1990 @ 7:55 P.M.

Location:

Outside 60 Brattle Street

50 feet from noise source which was
located across Brattle Street at the
intersection of Appian Way. (see Attached map)

Instrumentation used:

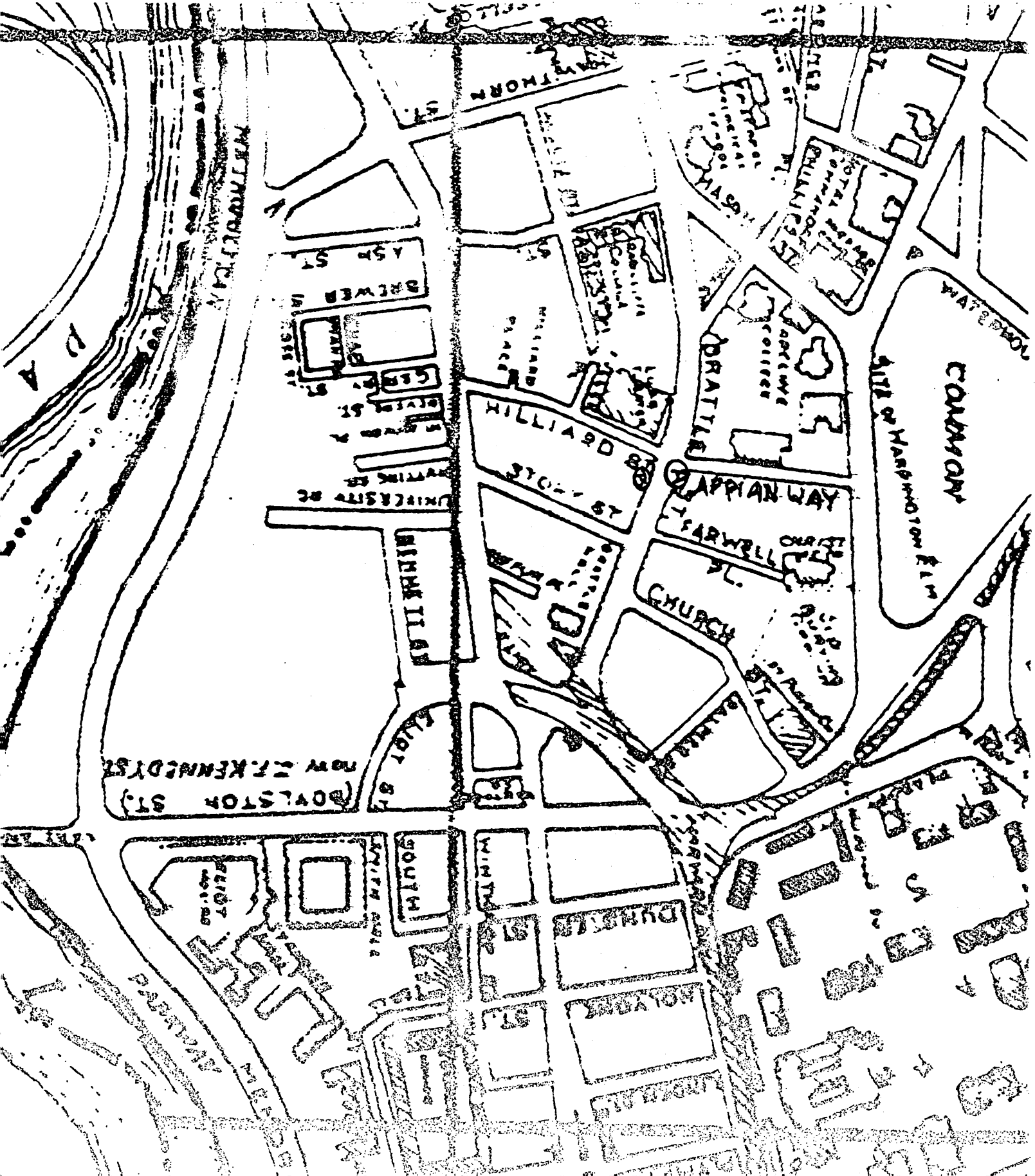
Bruel & Kjaer Sound Level Meter Type #2231

Bruel & Kjaer Sound Level Calibrator #4230

	<u>LEQ</u>	<u>L99.0</u>	<u>L90</u>	<u>L10</u>	<u>L1.0</u>	<u>MAXL</u>	<u>MAXP</u>
Lin(A)	72.9	68.1	70.6	75.1	76.1	76.9	90.0

Background noise readings:

	57.6	53.1	54.1	60.6	64.6	65.7	78.3
--	------	------	------	------	------	------	------



- (A) NOISE SOURCE (MUSIC) LOCATED AT CORNER OF APPIAN WAY & BRATTLE STREET
- (B) READINGS TAKEN ON BRATTLE ST. (60) 50 FEET FROM NOISE SOURCE.

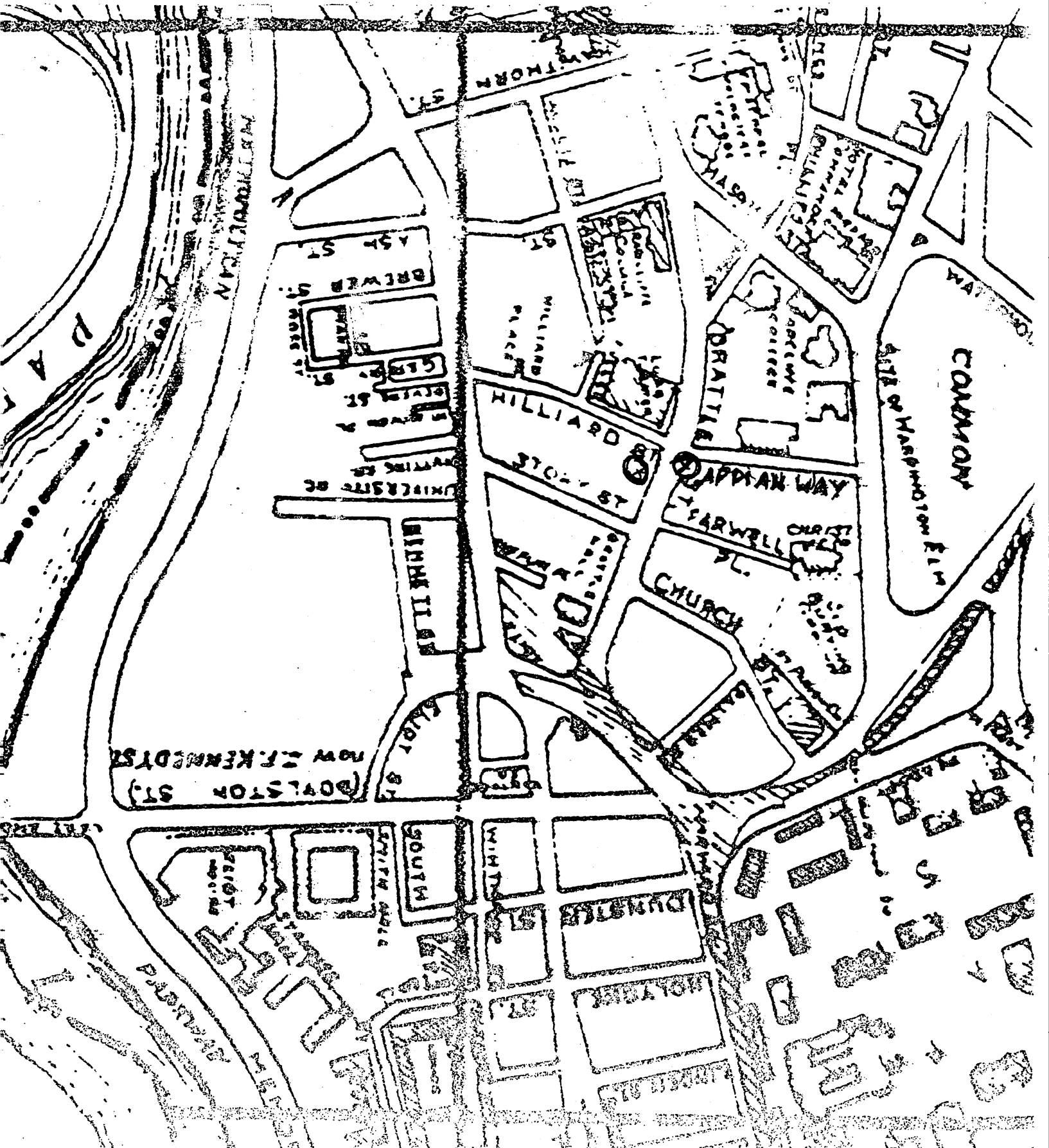
DATE: April 27, 1990 7:55 P.M.

LOCATION: 60 Brattle Street 6th Floor Front room facing Brattle Street (Windows Open)

INSTRUMENTATION USED: Bruel & Kjaer Precision Sound Level Meter Type #2232
Bruel & Kjaer Calibrator #4230

100 readings including noise source (Music) located across Brattle Street at corner of Appian Way.

		L90 - 61.0 dB(A)			L10 - 56.0 dB(A)		
1	<u>61.8</u>	26	<u>57.0</u>	51	<u>56.0</u>	76	<u>59.9</u>
2	<u>59.8</u>	27	<u>58.1</u>	52	<u>59.0</u>	77	<u>57.6</u>
3	<u>57.0</u>	28	<u>57.0</u>	53	<u>60.2</u>	78	<u>58.0</u>
4	<u>56.3</u>	29	<u>59.0</u>	54	<u>60.7</u>	79	<u>57.0</u>
5	<u>60.4</u>	30	<u>56.6</u>	55	<u>57.2</u>	80	<u>57.4</u>
6	<u>60.2</u>	31	<u>58.7</u>	56	<u>59.6</u>	81	<u>59.3</u>
7	<u>56.2</u>	32	<u>57.9</u>	57	<u>61.1</u>	82	<u>59.0</u>
8	<u>59.0</u>	33	<u>59.0</u>	58	<u>61.9</u>	83	<u>59.5</u>
9	<u>61.4</u>	34	<u>58.6</u>	59	<u>61.5</u>	84	<u>58.5</u>
10	<u>58.1</u>	35	<u>57.0</u>	60	<u>61.7</u>	85	<u>57.9</u>
11	<u>56.7</u>	36	<u>55.8</u>	61	<u>60.7</u>	86	<u>55.7</u>
12	<u>56.7</u>	37	<u>57.6</u>	62	<u>60.7</u>	87	<u>56.0</u>
13	<u>58.0</u>	38	<u>55.0</u>	63	<u>57.7</u>	88	<u>59.2</u>
14	<u>59.0</u>	39	<u>56.1</u>	64	<u>58.2</u>	89	<u>59.1</u>
15	<u>59.9</u>	40	<u>56.3</u>	65	<u>58.2</u>	90	<u>56.0</u>
16	<u>60.6</u>	41	<u>56.5</u>	66	<u>57.6</u>	91	<u>66.6</u> HIGH
17	<u>60.4</u>	42	<u>56.9</u>	67	<u>57.4</u>	92	<u>60.7</u>
18	<u>58.0</u>	43	<u>55.9</u>	68	<u>57.1</u>	93	<u>59.3</u>
19	<u>58.2</u>	44	<u>57.2</u>	69	<u>59.5</u>	94	<u>57.4</u>
20	<u>59.6</u>	45	<u>58.0</u>	70	<u>57.9</u>	95	<u>56.9</u>
21	<u>59.5</u>	46	<u>58.6</u>	71	<u>58.5</u>	96	<u>55.4</u>
22	<u>60.0</u>	47	<u>59.6</u>	72	<u>58.2</u>	97	<u>64.3</u>
23	<u>60.5</u>	48	<u>55.7</u>	73	<u>58.1</u>	98	<u>62.2</u>
24	<u>58.5</u>	49	<u>54.3</u> LOW	74	<u>58.0</u>	99	<u>61.0</u>
25	<u>57.1</u>	50	<u>58.0</u>	75	<u>57.8</u>	100	<u>59.0</u>



- (A) Noise source (music) located at corner of Appian Way + Brattle Street.
- (B) 100 readings taken at this location - 60 Brattle St 6th floor.

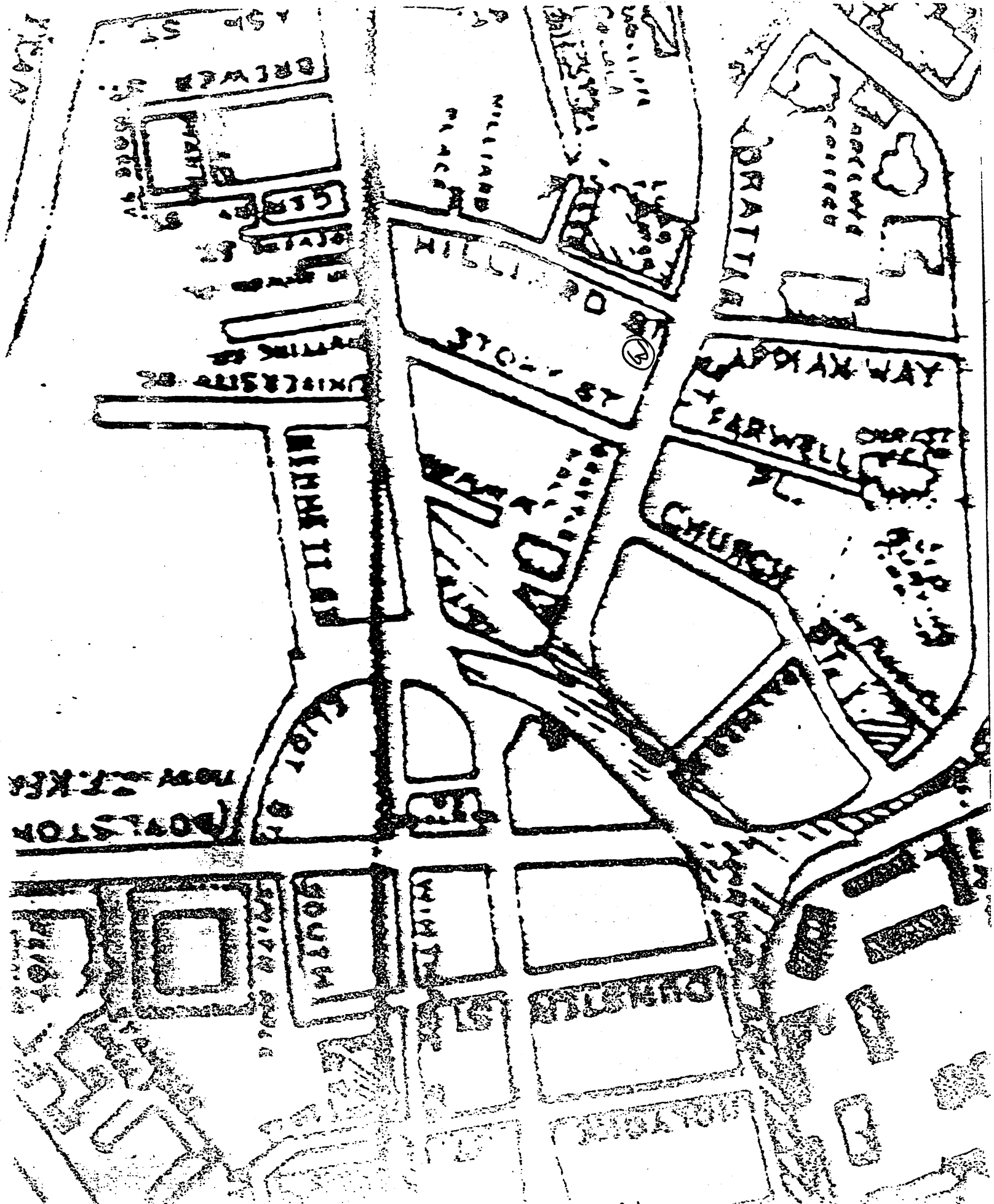
DATE: April 27, 1990 8:10 P.M.

LOCATION: 60 Brattle Street 6th Floor Front room facing Brattle Street (Windows open)

INSTRUMENTATION USED: Bruel & Kjaer Precision Sound Level Meter Type # 2232

100 readings taken Background noise Bruel & Kjaer Calibrator #4230

		L90 - 50.7 dB(A)		L10 - 44.4 dB(A)			
1	<u>63.6</u> <u>HIGH</u>	26	<u>40.4</u> <u>LOW</u>	51	<u>48.6</u>	76	<u>50.1</u>
2	<u>57.0</u>	27	<u>47.1</u>	52	<u>47.6</u>	77	<u>50.4</u>
3	<u>53.2</u>	28	<u>46.7</u>	53	<u>41.4</u>	78	<u>49.7</u>
4	<u>50.4</u>	29	<u>51.7</u>	54	<u>45.9</u>	79	<u>48.1</u>
5	<u>46.7</u>	30	<u>49.7</u>	55	<u>45.3</u>	80	<u>47.2</u>
6	<u>45.4</u>	31	<u>47.2</u>	56	<u>44.4</u>	81	<u>46.7</u>
7	<u>45.1</u>	32	<u>46.7</u>	57	<u>43.7</u>	82	<u>47.7</u>
8	<u>45.3</u>	33	<u>46.2</u>	58	<u>43.8</u>	83	<u>48.4</u>
9	<u>45.3</u>	34	<u>46.4</u>	59	<u>44.2</u>	84	<u>47.9</u>
10	<u>44.9</u>	35	<u>46.1</u>	60	<u>45.7</u>	85	<u>47.0</u>
11	<u>45.3</u>	36	<u>45.2</u>	61	<u>45.6</u>	86	<u>46.5</u>
12	<u>45.4</u>	37	<u>44.5</u>	62	<u>45.0</u>	87	<u>45.8</u>
13	<u>46.5</u>	38	<u>44.4</u>	63	<u>45.0</u>	88	<u>45.7</u>
14	<u>46.8</u>	39	<u>44.2</u>	64	<u>46.7</u>	89	<u>45.8</u>
15	<u>46.1</u>	40	<u>44.8</u>	65	<u>46.1</u>	90	<u>45.2</u>
16	<u>46.5</u>	41	<u>45.5</u>	66	<u>45.8</u>	91	<u>44.9</u>
17	<u>46.5</u>	42	<u>46.6</u>	67	<u>46.1</u>	92	<u>45.9</u>
18	<u>46.3</u>	43	<u>50.7</u>	68	<u>46.3</u>	93	<u>46.1</u>
19	<u>45.7</u>	44	<u>51.7</u>	69	<u>46.6</u>	94	<u>47.0</u>
20	<u>45.1</u>	45	<u>52.8</u>	70	<u>46.5</u>	95	<u>46.9</u>
21	<u>46.8</u>	46	<u>52.4</u>	71	<u>49.7</u>	96	<u>46.0</u>
22	<u>47.6</u>	47	<u>48.8</u>	72	<u>48.5</u>	97	<u>46.6</u>
23	<u>48.7</u>	48	<u>51.3</u>	73	<u>47.1</u>	98	<u>40.8</u>
24	<u>48.5</u>	49	<u>52.3</u>	74	<u>48.7</u>	99	<u>48.5</u>
25	<u>47.8</u>	50	<u>41.8</u>	75	<u>46.3</u>	100	<u>46.3</u>



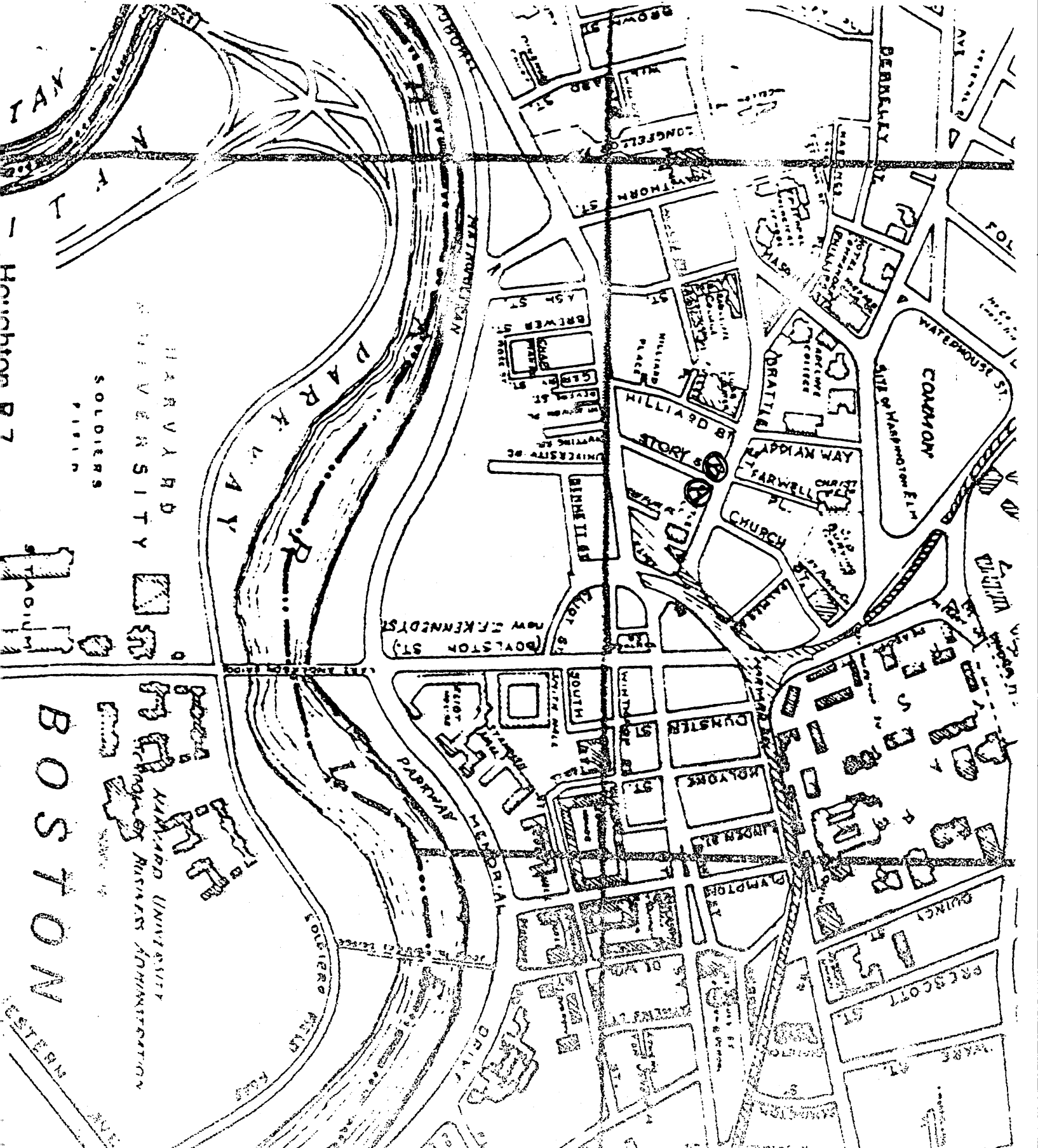
(B) BACKGROUND readings
TAKEN FROM THIS LOCATION
60 BRATTLE STREET - 6th FLOOR

Readings taken include noise source (music)
Location: 50 feet from music which was located
in front of Crate & Barrel on corner of Brattle
Street and Story Street. (see attached map)
April 27, 1990 @ 8:35 P.M.
Instrumentation used:
Bruel & Kjaer Sound Level Meter Type #2231
Bruel & Kjaer Sound Level Calibrator #4230

	<u>LEQ</u>	<u>L99.0</u>	<u>L90</u>	<u>L10</u>	<u>L1.0</u>	<u>MAXL</u>	<u>MAXP</u>
Lin(A)	74.1	70.1	71.1	75.6	77.6	77.9	93.3

Background noise readings:

	61.9	57.6	58.1	65.1	68.6	69.5	90.1
--	------	------	------	------	------	------	------



(A) Noise source (music) located in front of crate & barrel, corner of story street & Brattle street
 (B) Reading taken from this location, 50 ft from noise source.

DATE: April 27, 1990 8:35 P.M.

LOCATION: 60 Brattle Street 6th Floor Side Window facing Story Street

INSTRUMENTATION USED: Bruel & Kjaer Precision Sound Level Meter Type #2232
Bruel & Kjaer Calibrator #4230

100 readings including noise source (music) located in front of Crate & Barrel

L90 - 58.1 dB(A)			L10 - 53.8 dB(A)								
1	<u>72.5</u>	<u>HIGH</u>	26	<u>57.1</u>		51	<u>54.0</u>		76	<u>53.7</u>	
2	<u>68.6</u>		27	<u>57.0</u>		52	<u>53.8</u>		77	<u>54.0</u>	
3	<u>64.6</u>		28	<u>56.5</u>		53	<u>53.7</u>		78	<u>53.7</u>	
4	<u>63.2</u>		29	<u>57.6</u>		54	<u>53.7</u>		79	<u>54.6</u>	
5	<u>60.8</u>		30	<u>58.0</u>		55	<u>54.2</u>		80	<u>54.7</u>	
6	<u>56.2</u>		31	<u>57.9</u>		56	<u>54.0</u>		81	<u>53.8</u>	
7	<u>55.2</u>		32	<u>57.7</u>		57	<u>54.7</u>		82	<u>54.6</u>	
8	<u>56.1</u>		33	<u>56.7</u>		58	<u>66.7</u>		83	<u>54.6</u>	
9	<u>54.8</u>		34	<u>57.0</u>		59	<u>54.4</u>		84	<u>55.4</u>	
10	<u>55.0</u>		35	<u>56.0</u>		60	<u>54.2</u>		85	<u>54.7</u>	
11	<u>55.2</u>		36	<u>56.0</u>		61	<u>54.0</u>		86	<u>54.0</u>	
12	<u>55.1</u>		37	<u>57.4</u>		62	<u>54.2</u>		87	<u>53.9</u>	
13	<u>54.8</u>		38	<u>56.4</u>		63	<u>55.7</u>		88	<u>53.8</u>	
14	<u>55.0</u>		39	<u>57.2</u>		64	<u>56.5</u>		89	<u>54.5</u>	
15	<u>54.5</u>		40	<u>56.6</u>		65	<u>58.4</u>		90	<u>54.4</u>	
16	<u>54.2</u>		41	<u>55.6</u>		66	<u>56.6</u>		91	<u>55.0</u>	
17	<u>55.0</u>		42	<u>55.7</u>		67	<u>57.6</u>		92	<u>51.0</u>	<u>LOW</u>
18	<u>55.0</u>		43	<u>57.2</u>		68	<u>57.3</u>		93	<u>55.2</u>	
19	<u>56.5</u>		44	<u>58.7</u>		69	<u>52.9</u>		94	<u>55.2</u>	
20	<u>56.9</u>		45	<u>57.5</u>		70	<u>54.6</u>		95	<u>55.4</u>	
21	<u>56.2</u>		46	<u>57.7</u>		71	<u>53.6</u>		96	<u>56.9</u>	
22	<u>58.1</u>		47	<u>54.4</u>		72	<u>53.9</u>		97	<u>56.3</u>	
23	<u>52.5</u>		48	<u>54.6</u>		73	<u>53.6</u>		98	<u>54.6</u>	
24	<u>58.4</u>		49	<u>54.5</u>		74	<u>54.6</u>		99	<u>54.0</u>	
25	<u>56.6</u>		50	<u>54.2</u>		75	<u>53.8</u>		100	<u>55.7</u>	

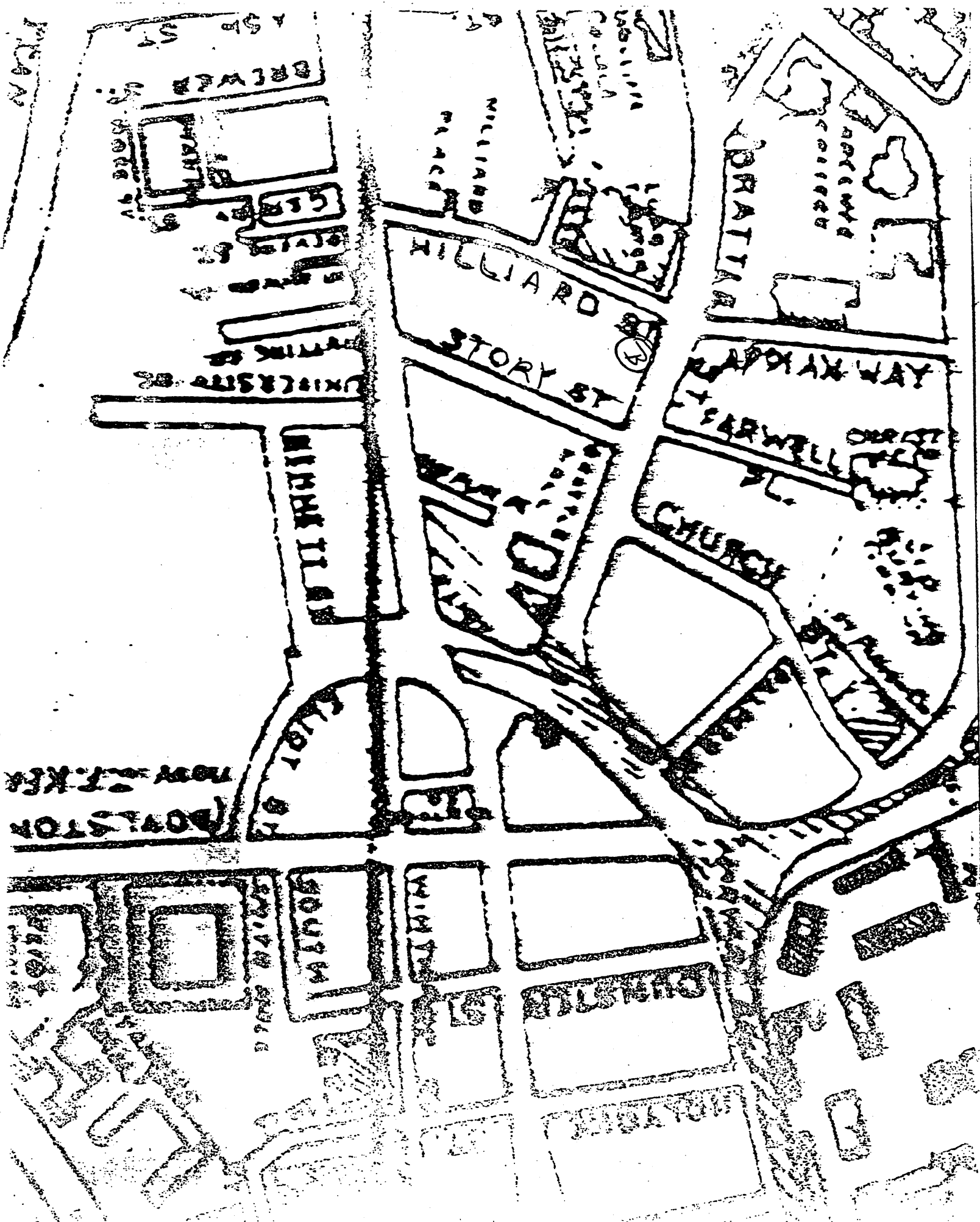
DATE: April 27, 1990 ~~8:49 P.M.~~

LOCATION: 60 Brattle Street 6th floor (side window facing Story Street)

INSTRUMENTATION USED: Bruel & Kjaer Precision Sound Level Meter Type #2232

Bruel & Kjaer Calibrator #4230

100 Readings		Background Noise	
		L90 - 54.1 dB(A)	L10 - 50.7 dB(A)
1	<u>55.8</u>	26 <u>51.4</u>	51 <u>52.5</u> 76 <u>51.0</u>
2	<u>54.0</u>	27 <u>51.1</u>	52 <u>53.0</u> 77 <u>51.5</u>
3	<u>54.1</u>	28 <u>57.6</u>	53 <u>52.9</u> 78 <u>51.3</u>
4	<u>53.3</u>	29 <u>52.7</u>	54 <u>52.6</u> 79 <u>52.0</u>
5	<u>53.5</u>	30 <u>52.8</u>	55 <u>52.2</u> 80 <u>50.8</u>
6	<u>54.1</u>	31 <u>51.9</u>	56 <u>51.9</u> 81 <u>51.2</u>
7	<u>54.9</u>	32 <u>51.5</u>	57 <u>52.5</u> 82 <u>50.3</u>
8	<u>54.1</u>	33 <u>52.7</u>	58 <u>52.6</u> 83 <u>50.0</u> LOW
9	<u>54.1</u>	34 <u>52.5</u>	59 <u>51.6</u> 84 <u>50.4</u>
10	<u>60.5</u> HIGH	35 <u>51.7</u>	60 <u>50.4</u> 85 <u>50.6</u>
11	<u>57.1</u>	36 <u>51.8</u>	61 <u>50.8</u> 86 <u>50.2</u>
12	<u>54.4</u>	37 <u>52.0</u>	62 <u>50.7</u> 87 <u>50.1</u>
13	<u>54.6</u>	38 <u>51.8</u>	63 <u>51.7</u> 88 <u>50.7</u>
14	<u>53.6</u>	39 <u>52.0</u>	64 <u>51.9</u> 89 <u>51.2</u>
15	<u>54.9</u>	40 <u>51.7</u>	65 <u>52.5</u> 90 <u>51.5</u>
16	<u>53.7</u>	41 <u>51.2</u>	66 <u>52.6</u> 91 <u>52.2</u>
17	<u>52.6</u>	42 <u>51.9</u>	67 <u>53.2</u> 92 <u>53.2</u>
18	<u>52.0</u>	43 <u>52.0</u>	68 <u>53.3</u> 93 <u>52.9</u>
19	<u>51.7</u>	44 <u>51.8</u>	69 <u>52.9</u> 94 <u>53.2</u>
20	<u>51.8</u>	45 <u>54.1</u>	70 <u>52.1</u> 95 <u>52.6</u>
21	<u>51.2</u>	46 <u>53.2</u>	71 <u>51.7</u> 96 <u>51.7</u>
22	<u>50.8</u>	47 <u>52.5</u>	72 <u>51.0</u> 97 <u>52.6</u>
23	<u>50.7</u>	48 <u>51.7</u>	73 <u>51.8</u> 98 <u>51.8</u>
24	<u>51.4</u>	49 <u>52.7</u>	74 <u>51.3</u> 99 <u>51.2</u>
25	<u>52.8</u>	50 <u>54.1</u>	75 <u>50.9</u> 100 <u>51.1</u>



(B) BACK GROUND Readings TAKEN FROM THIS LOCATION - 60 BRATTLE ST. 6th FLOOR.

Readings taken include noise source.

Location of music: In front of the Harvard Coop Women's Store at the intersection of Brattle Street and Church Street. (see attached map)

Instrumentation used:

Bruel & Kjaer Sound Level Meter Type #2231

Bruel & Kjaer Sound Level Calibrator #4230

Readings taken 50 feet from noise source to the left facing musicians:

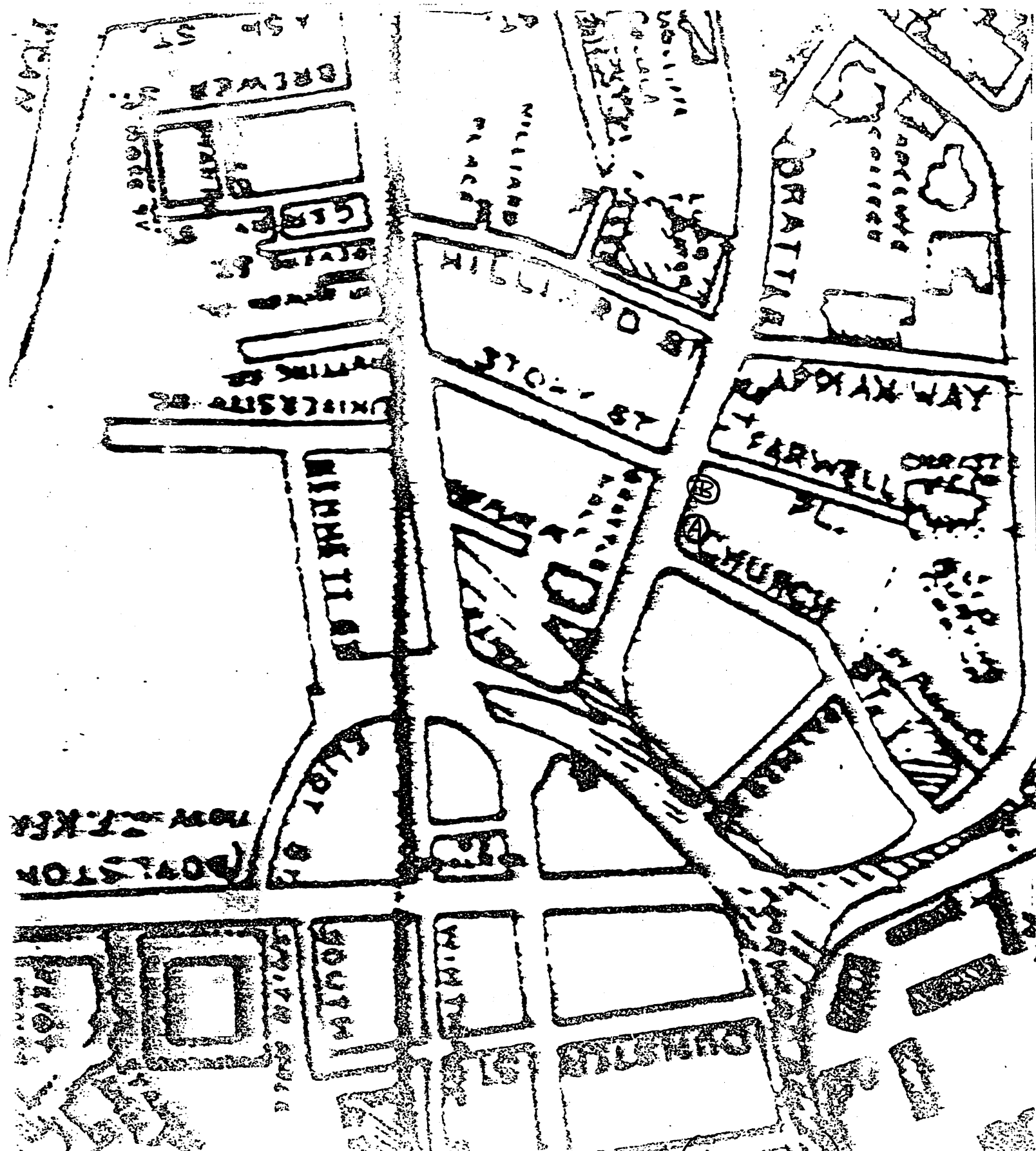
	<u>LEQ</u>	<u>L99.0</u>	<u>L90</u>	<u>L10</u>	<u>L1.0</u>	<u>MAXL</u>	<u>MAXP</u>
Lin(A)	78.3	76.6	77.1	79.6	80.6	80.6	93.3

Readings taken 50 feet from noise source to the right facing musicians:

	77.1	75.6	76.1	78.1	80.1	81.6	92.6
--	------	------	------	------	------	------	------

Background noise:

Averaged 76.0 dB(A)



Ⓐ Noise source (music)
 Located in front of
 Harvard Coop (women's store)
 corner of Church Street &
 Brattle Street.

Ⓑ Reading taken at this
 location, 50 feet from
 noise source.

with the commissioner of public safety on a form prescribed by the commissioner, containing the true name, legal address and the assumed name of such person. Such statement shall be under the penalties of perjury and shall be accompanied by a fee, the amount of which shall be determined annually by the commissioner of administration under the provisions of section three of chapter seven of the regulations of this section shall be punished by a fine not to exceed one hundred dollars for each offense. (1961, 429; 1980, 572, § 257, approved July 20, 1980, by § 417, effective July 1, 1980, and expires on December 31, 1982, if not extended by Act of Governor July 23, 1980, by 1982, 602, approved December 23, 1982, by § 2, expiration date extended to December 31, 1983, if not extended by Act of Governor, December 29, 1982, by 1983, 714, approved with emergency preamble, December 30, 1983, by § 2, expiration date extended to June 30, 1985, 1985, 200, § 8, approved July 24, 1985, effective 90 days thereafter (repealed Acts 1980, ch 572, § 417 expiration provision as last extended by Acts 1983, ch 714, § 2).)

§ 183A. Licenses Required by Innholders, etc., Conducting Certain Amusements; Applications for Licenses; Powers and Duties of Licensing Authorities.

No innholder, common victualler, keeper of a tavern, or person owning, managing, or controlling any club, restaurant or other establishment required to be licensed under section twelve of chapter one hundred and thirty-eight, or under section two, twenty-one A or twenty-one E of chapter one hundred and forty, and no person owning, managing, or controlling any concert, dance, exhibition, cabaret or public show of any description to be conducted on any premises required to be licensed under the sections described above, shall, as a part of its usual business, offer to view, set up, set on foot, maintain or carry on a concert, dance, exhibition, cabaret or public show of any description, unless and until a license therefor has been issued by the licensing authorities. The application for such license shall be in writing and shall state the type of concert, dance, exhibition, cabaret or public show sought to be licensed and shall state whether such public show will include: (a) dancing by patrons; (b) dancing by entertainers or performers; (c) recorded or live music; (d) the use of an amplification system; (e) a theatrical exhibition, play or moving picture show; (f) a floor show of any description; (g) a light show of any description; or (h) any other dynamic audio or visual show, whether live or recorded.

The application shall also state whether as part of the concert, dance, exhibition, cabaret or public show any person will be permitted to appear on the premises in any manner or attire as to expose to public view any portion of the pubic area, anus, or genitals, or any simulation thereof, or whether any female person will be permitted to appear on the premises in any manner or attire as to expose to public view any portion of the breast below the top of the areola, or any simulation thereof.

Upon request of the licensing authorities, the applicant shall furnish further additional information concerning the type of concert, dance

EXHIBIT "A"

exhibition, cabaret) or public show sought to be licensed, the conditions of the premises, and the actions to be taken in order to prevent danger to the public safety, health or order. Once a license has been granted to an applicant, the licensee shall continue to provide such information to the licensing authorities upon their request with regard to any particular concert, dance, exhibition, cabaret, or public show or with regard to the conduct of the premises in general.

Within forty-five days following receipt of an application for a license under this section, the licensing authorities may (a) grant a license or, (b) shall provide the opportunity for a hearing on the application by written notice to the applicant given seven days prior to the hearing date.

Within thirty days next following the final date of such opportunity for a hearing the licensing authorities shall (a) grant the license or (b) deliver to the applicant a written notice denying the license and stating in writing the reasons for such denial. No application having been denied as aforesaid and no similar application thereto may be filed within one year of said denial except in the discretion of the licensing authorities.

The licensing authorities shall grant a license under this section unless they find that the license taken alone or in combination with other licensed activities on the premises would adversely affect the public health, safety or order, in that the concert, dance, exhibition, cabaret, or public show cannot be conducted in a manner so as to: (a) protect employees, patrons, and members of the public inside or outside the premises from disruptive conduct, from criminal activity, or from health, safety or fire hazards; (b) prevent an unreasonable increase in the level of noise in the area caused by the licensed activity or caused by patrons entering or leaving the premises or (c) prevent an unreasonable increase in the level of pedestrian or vehicular traffic in the area of the premises or an unreasonable increase in the number of vehicles to be parked in the area of the premises.

The licensing authorities may modify, suspend or revoke a license granted pursuant to the provisions of this section after providing an opportunity for a hearing preceded by a written notice to the licensee ten days prior to the hearing date. The licensing authorities may not modify, suspend or revoke such license unless they find that the license, taken alone or in combination with other licensed activities on the premises, has adversely affected the public health, safety or order as stated in the preceding paragraph. In any case in which the licensing authorities modify, suspend or revoke a license, they shall notify the licensee in writing of such action and said written notice shall be accompanied by a statement of reasons.

In order to preserve and protect the public health, safety and order as aforesaid, the licensing authorities may place conditions upon the license and promulgate rules and regulations for such licenses. The licensing authorities may modify, suspend or revoke a license pursuant to this section for any violation of their rules and regulations or for any violation of law and may petition the superior court department of the trial court to enjoin any violation of this section.

The licensing authorities of any city or town may adopt a rule requiring

licensees under this section to prohibit minors from attending any concert, dance, exhibition, cabaret or public show of any description in which or at which any person appears in a manner or attire as to expose to public view any portion of the pubic area, anus, or genitals, or any simulation thereof, or in which or at which any female person appears in a manner or attire as to expose to public view any portion of the breast below the top of the areola, or any simulation thereof.

A license issued under this section, unless sooner revoked, shall expire on December thirty-first of each year. The fee for any such license or for any renewal thereof shall not exceed one hundred dollars.

The provisions of this section shall be applicable seven days per week provided, however, that no license under this section shall be granted to permit such activities except an athletic game or sport, or motion picture exhibited at a drive-in theatre during the period from the last Sunday in April to the last Sunday in October, on Sundays or before one o'clock in the afternoon, on Sundays, without the written approval of the commissioner of public safety, made in accordance with the provisions of this section, upon written application to the said commissioner accompanied by a fee of not more than five dollars, or in the case of an annual license by a fee of not more than one hundred dollars. (Amended by 1981, 351, § 85, approved July 21, 1981, by § 299, effective July 1, 1981; 1981, 694, § 1, approved December 23, 1981, effective by act of Governor December 24, 1981.)

Editorial Note

The first 1981 amendment revised the fourth sentence, incorporating optional procedures whereby a licensing authority may determine the subject fee, and also incorporating a limitation of fifty dollars upon said fee.

The second 1981 amendment completely rewrote the section, providing detailed procedures for applications (to licensees), setting forth the powers of licensing authorities, and providing that the licensing authorities of any city or town may adopt a rule requiring licensees to prohibit minors from attending certain concerts, dances and exhibitions.

CASE NOTES

Probate Court lacked subject matter jurisdiction over action for injunctive and declaratory relief against town licensing authorities who had revoked entertainment license. *Konstantopoulos v Whately* (1981, Mass) 1981 Adv. Sheets 1669, 424 NE2d 210.

Proper standard of review in cases where local licensing authority revokes entertainment license is substantial evidence. *Konstantopoulos v Whately* (1981, Mass) 1981 Adv. Sheets 1669, 424 NE2d 210.

Hearing requires adequate notice of charge forming basis of revocation, opportunity to call witnesses and to cross-examine opposing witnesses, and to appear with counsel. *Konstantopoulos v Whately* (1981, Mass) 1981 Adv. Sheets 1669, 424 NE2d 210.

Oral notice 1 1/2 hours prior to revocation hearing did not comport with rudimentary standard of due process. *Konstantopoulos v*

Whately (1981, Mass) 1981 Adv. Sheets 1669, 424 NE2d 210.

Purpose of ALM, GL c 140 § 183A is preservation of public order at public entertainments. *Konstantopoulos v Whately* (1981, Mass) 1981 Adv. Sheets 1669, 424 NE2d 210.

Requirement of hearing implies that licensee is to be notified and to have opportunity to be heard. *Konstantopoulos v Whately* (1981, Mass) 1981 Adv. Sheets 1669, 424 NE2d 210.

Holder of entertainment license has constitutionally protected interest of which he cannot be deprived without procedural due process. *Konstantopoulos v Whately* (1981, Mass) 1981 Adv. Sheets 1669, 424 NE2d 210.

Action to review agency's revocation of license was in nature of certiorari and should

City of Cambridge

C. NOISE IN BUSINESS, OFFICE ZONING DISTRICTS.

No person shall create or cause to be emitted from or by any source subject to Regulation V any noise which causes or results in a noise level, measured at any lot line of any lot in any Business Zoning District other than a lot in residential use in conformance with the Cambridge Zoning Ordinance, in excess of any level of the "Business District Noise Standard", Regulation VI. E. Noise emitted from construction sites shall be excepted from this regulation.

D. NOISE IN INDUSTRIAL ZONING DISTRICTS.

No person shall create or cause to be emitted from or by any source subject to Regulation VI, any noise which causes or results in a noise level, measured at any lot line of any lot in recreational or business use in any Industrial Zoning District in conformance with the Cambridge Zoning Ordinance, in excess of any level of "Industrial District Noise Standard", Regulation VI. E. Noise emitted from construction sites shall be excepted from this regulation.

E. ZONING DISTRICT NOISE STANDARDS.

Noise standards referred to in these Regulations for the several zoning districts of the City of Cambridge, as defined in and established pursuant to the Cambridge Zoning Ordinance are as established by the following Table.

TABLE OF ZONING DISTRICT NOISE STANDARDS

Maximum Allowable Octave Band Sound Pressure Levels

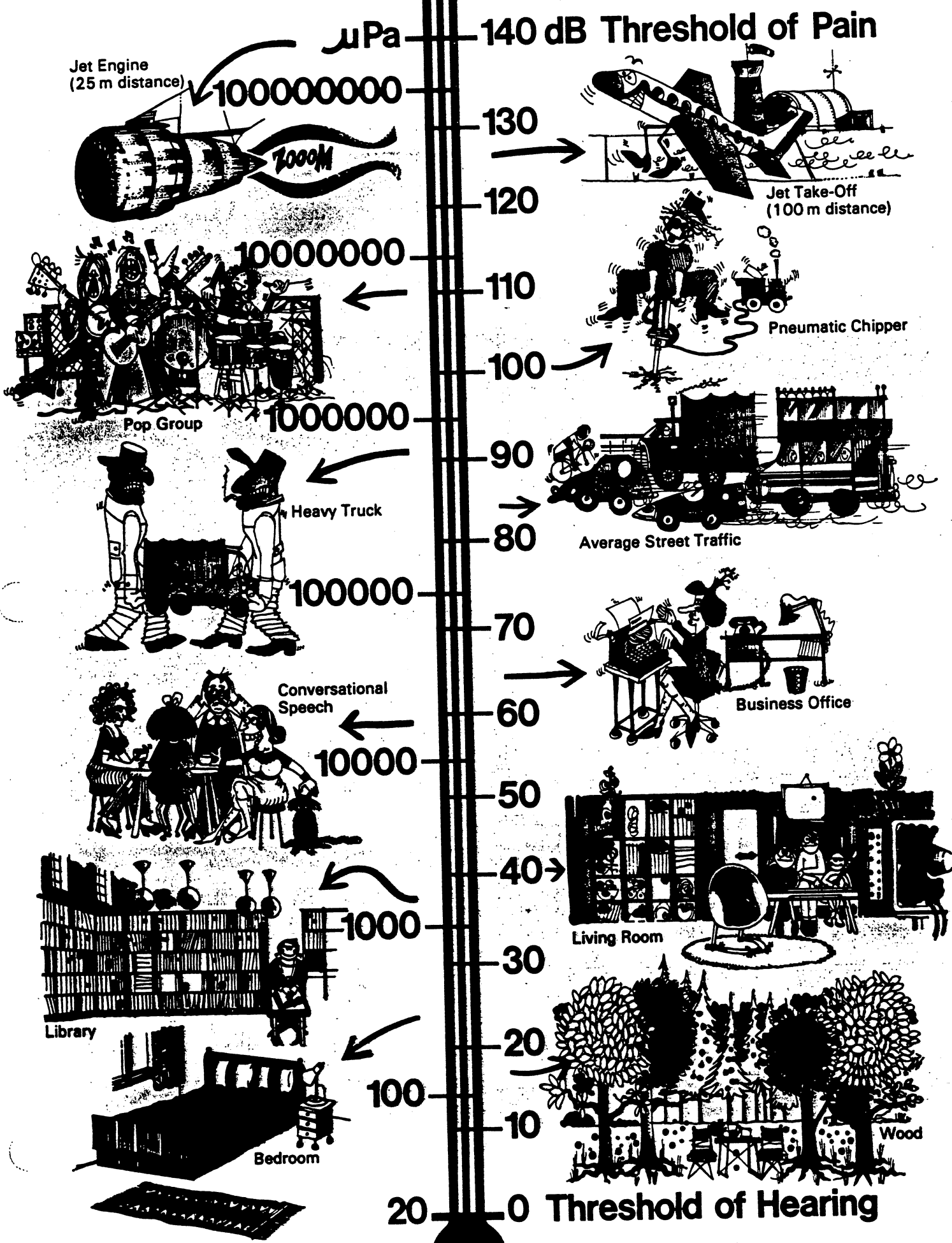
Octave Band Center Frequency of Measurement (Hz)	Residential		Residential in Industrial		Office Business	Industry
	Daytime	All other times	Daytime	All other times	Anytime	Anytime
31.5	76	68	79	72	79	83
63	75	67	78	71	78	82
125	69	61	73	65	73	77
250	62	52	68	57	68	73
500	56	46	62	51	62	67
1000	50	40	56	45	56	61
2000	45	33	51	39	51	57
4000	40	28	47	34	47	53
8000	38	26	44	32	44	50
Single Number- Equivalent (dB(A))	60	50	65	55	65	70

EXHIBIT "B"

Exhibit "C"

Sound Pressure

Sound Pressure Level





6

CITY OF CAMBRIDGE RECEIVED
INTEROFFICE CORRESPONDENCE 90 MAY 6 AM 11:01
OFFICE OF THE CITY MANAGER

To Robert Healy, City Manager

Date May 7, 1990

From *G. Teso*
George Teso, Traffic Director

Reference

Subject Proposed Ordinance on Street Performers

I have reviewed the proposed ordinance for on-street performers enforcement. There are two concerns which should be addressed before final adoption.

1. It is my opinion that Parking Control Officers cannot enforce this ordinance and should not be involved in the enforcement of this ordinance. They are included in Section D and Section G-1 of the proposed ordinances submitted to the Council on March 23, 1990.
2. We have serious concern for the safety of the general public if performers are allowed to perform on traffic medians or traffic islands. With traffic on all sides and limited area for the public to stand, people could step into a hazardous situation.

LMP:rd

CAMBRIDGE
DEPARTMENT
OF PUBLIC
**THE
WORKS**

H

RECEIVED BY
OFFICE OF CITY CLERK
1990 MAY 18 AM 10:46
CAMBRIDGE MA.

147 Hampshire Street May 18, 1990
Cambridge
Massachusetts 02139
617.498.9051

William Sommers
Commissioner

TO: Joe Connarton, City Clerk
FROM: William Sommers, Commissioner, DPW

Subject: Comments on the Proposed Street Performers Ordinance

I have read the draft of this ordinance and I have a number of comments which I hope can be taken into consideration as this ordinance is considered.

1. While I note that the permits will be issued by the License Commissioner according to this draft, I would point out that under existing ordinances permits for the obstruction of public ways are under the direction of the Commissioner of Public Works and/or Superintendent of Streets. It seems to me that a consistency should be preserved here and that perhaps the permit should be constituted like the demolition permit where there are a number of sign offs. DPW should, in any event, be a signatory.

2. The definition of "public places" includes parks and playgrounds; presumably permits could be granted for any park or playground in the city. As you know many of our smaller parks are quite fragile with the most tenuous ecological systems; we spend large sums of tax dollars just keeping these parks and playgrounds at the bare minimum. In addition, a couple of parks are undergoing repair and the Commons, which has a grassy area that is deteriorating and which we are trying to hold fallow for a year or so, could fall apart completely if street musicians and crowds are allowed to gather. At the same time the playgrounds and the parks available for use are often heavily scheduled for sport, social, neighborhood and information uses. The schedules are kept in cooperation with the DPW and the Recreation Division. Moreover, many of the playgrounds and tot lots, having heavy but casual use, could conflict with the addition of street musicians.

The point is that issuing permits for the use of parks and playgrounds without taking into account the ecological status of the park, the reconstruction that may be going on there and the conflict with other schedules will, I believe, lead to



RECEIVED BY
OFFICE OF CITY CLERK

1980 MAY 18 AM 10:46

CAMBRIDGE MA.

confusion, frustration and chaos unless the issuance of these permits is coordinated with the Department of Public Works. I believe that Section F should be rewritten to include, in addition to the Chief of Police, the Commissioner of Public Works with respect to parks and playgrounds.

3. Section D (6) allows street performers to collect funds and to sell their products. We have tried hard to limit sellers in the various squares and the parks and playgrounds because of a consistently large number of requests we get for this kind of solicitation; and we envision that the parks and playgrounds - and the squares - will be crowded with sellers and solicitors of all kinds once the provision for street musicians is included. For clearly if the street musicians can do it, then we cannot very well hold back on the variety of selling that we are daily asked to approve.

4. The ten dollar fee that is required is a flat fee that will not, in most cases, offset the clean up costs associated with street musicians and the crowds they might draw. With our manpower cut down and expenses trimmed under the current budget we cannot manage to clean up after the larger groups get through. It seems to me that we are here discussing a "user fee" that should bear some relation to the cost and the fee should be graduated depending upon the number involved in the groups to be licensed. I also believe that the fee may be too low. Since the license could be issued for up to a year and since ten dollars per year, or part thereof, in no way offsets the user portion of the cost of administrative and operational work on the parks and playgrounds, we have a user fee that does not reflect a fair share of the costs.

5. Under G, I believe DPW personnel ought to be included under the non-criminal enforcement. This is because both streets, sidewalks and playgrounds come under DPW's jurisdiction and our personnel are already enforcing various sections of the current non-criminal ordinance.

cc: Robert Healy, City Manager
Richard Rossi, Deputy City Manager
Don Drisdell, Lew Department
James MacDavitt, License Commissioner

COMMUNICATIONS & REPORTS
FROM CITY OFFICERS

Comm. from William Sommers, Commissioner of Public Works, transmitting his comments on the proposed amendment to the Municipal Code regarding Street Performers.

In City Council,

June 4, 1990

*Referred to the
petition*



Cambridge Arts Council

57 Inman Street Cambridge, MA 02139 (617) 498-9033

11

April 6, 1990

Councillor Frank Duehay
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Dear Councillor Duehay:

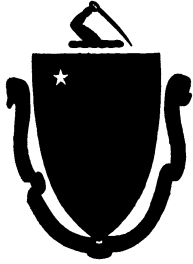
I am writing to you as Director of the Cambridge Arts Council to express the Council's support for the proposed new ordinance dealing with the issues of Street Performers in Cambridge.

The Arts Council has worked with the Street Performers for many years and is keenly aware of these performer's unique contributions to the quality of life for all of us in Cambridge. The special ambiance of many public areas particularly around Harvard Square regularly attracts residents and visitors alike. The talents and contributions of these performers play a large role in enhancing the livability of our city.

Very sincerely,


Annabelle Hébert
Executive Director

RECEIVED BY
CLERK OF CITY CLERK
1990 APR 10 PM 3:35
CAMBRIDGE MA.



SENATOR
MICHAEL J. BARRETT
MIDDLESEX AND SUFFOLK
DISTRICT
ROOM 405
TEL. 722-1280

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133

Received at
Rostrum
on 4-11-89
by hand.

COMMITTEES:
LOCAL AFFAIRS (CHAIR)
COUNTIES
EDUCATION
ELECTION LAWS
HOUSING AND URBAN
DEVELOPMENT
PUBLIC SAFETY
SPECIAL COMMISSION ON
WORKER AVAILABILITY IN
LONG TERM CARE FOR THE
ELDERLY (CHAIR)

April 11, 1990

Cambridge City Council
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Dear Members of the Council:

I want to offer my strongest support for the proposed city ordinance regarding the regulation of street performers.

Our city's active street artist community is an important part of Cambridge's vibrant cultural life. Residents are rightly proud of the performers who began their careers here and later moved on to a bigger stage as well those who have chosen to remain in the city.

I've reviewed the proposed ordinance, and I'm impressed that the Street Artists' Guild and City Manager Robert Healy have managed to strike a fair balance between legitimate public safety concerns and the rights of performers.

I hope you will act favorably on the proposed ordinance. Thank you very much for your attention to this matter.

Sincerely,

Michael J. Barrett
State Senator
Middlesex and Suffolk District

Text with Amendments

DRAFT-June 7, 1990

In amendment to an ordinance formerly entitled: "The General Ordinances of the City of Cambridge," as revised in 1972, and now designated as "The Code of the City of Cambridge."

Chapter 12.16 of the Code (Street and Sidewalk Use Regulations) is hereby amended by adding thereto the following new section 12.16.160 (Street performers):

12.16.160 Street performers

The City Council finds that the existence in the City of Street Performers provides a public amenity that enhances the character of the City and seeks to encourage such performances to the extent that they do not interfere with the reasonable expectations of residents to the enjoyment of peace and quiet in their homes. This Ordinance seeks to balance the interests of the performers with those of the residents of the City.

The City Council hereby designates the Arts Council of the City to be the agent of the City primarily charged with the responsibility of supervising the provisions of this Ordinance.

A. Definitions

1. "Perform" includes, but is not limited to, the following activities: acting, singing, playing musical instruments,

pantomime, juggling, magic, dancing, reading and reciting.

2. "Performer" means a person who has obtained a permit pursuant to this section.

3. "Public areas" means public sidewalks, parks, playgrounds and all public ways in Cambridge.

B. Prohibition

No person may perform in a public area without a permit issued pursuant to subsection C of this section.

C. Permit

1. A permit shall be issued by the ~~Cambridge License Commission~~ ~~Cambridge Arts Council~~ to each applicant therefor in exchange for a completed application and a fee of ~~\$10~~ ~~\$25~~.

2. A completed application for a permit, and the permit itself, shall contain the applicant's name, residence address and telephone number, and shall be signed by the applicant.

3. A permit shall be valid from the date on which it is issued through the end of that year.

4. A permit shall be non-transferable, and shall contain the permit number of the applicant and the year in which the permit is valid. ~~Each member of a group of performers who play together shall be required to obtain an individual permit.~~

5. Upon issuing a permit, the ~~License Commission~~ ~~Arts Council~~ shall also give the performer a copy of this section.

D. Display of permit

A performer shall carry the permit on his or her person while performing, and shall show it to any Cambridge Police Officer or

~~Parking Control Officer~~ or staff person of the Cambridge Arts Council on request.

E. Permitted performances

1. Performances may take place in the following locations:

In public areas, except within 100 feet of a school, library, or church while in session, a hospital at any time, and except public areas excluded by the City Council, the Commissioner of Public Works, or the Chief of Police pursuant to subsection F of this section;

On private property, with the written permission of the owner or other person in control of such property;

In public areas where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.

2. Performances may take place at the following times:

Monday through Thursday, between 9:00 a.m. and ~~10:00~~ 11:00

p.m.

Friday, between 9:00 a.m. and ~~11:00~~ ^{11:00} ~~12:00~~ a.m.

Saturday, between 9:00 a.m. and ~~11:00~~ ^{11:00} ~~12:00~~ a.m.

Sunday, between 10:00 a.m. and ~~10:00~~ 11:00 p.m.

AMEND. BY
C. SULLIVAN

3. No performer or group of performers may generate noise exceeding a median sound level of 80 decibels measured at a distance of 50 feet from the performer or group of performers. A performer or group of performers may use sound amplification as long as this sound level is not exceeded. Upon a complaint by a resident the designated staff of the Cambridge Arts Council shall,

with the permission of the resident, measure the sound level from inside the residential dwelling. If the sound level exceeds a mean ^{MEDIAN} sound level of 60 decibels in the daytime or a mean ^{MEDIAN} sound level of 50 decibels in the nighttime, as defined in the City's Noise Ordinance, the performer(s) causing the excessive sound level shall move to a distance from the residence sufficient to reduce the sound level within these limitations.

4. A performer may not create an undue interference with the passage of the public through a public area. If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. The police officer shall not cause the performer to leave the location unless efforts to move the crowd fail to adequately protect the public safety or order. A police officer shall not ask the performer to leave the location unless all other means of restoring the public safety or order have been exhausted. the location.

5. No performer or group of performers may perform less than 50 feet from another performer or group of performers.

6. A performer may request contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12" x 18" in size. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat. Performers may offer for sale representations of their own work, including but not limited to photos, records, cassettes, videotapes or compact discs. No display of such

representations of the performers own work shall exceed more than twenty-five percent of the width of the sidewalk from the property line of the premises in front of which the display is installed. In public areas other than sidewalks, no such display shall exceed twenty-five square feet, and it shall be prohibited to place a carpet, rug, blanket, or other such covering over grass in a public place.

F. Exclusion of public areas

(1) A specific public area may be excluded from performances in accordance with constitutional standards by decision of the City Council after a public hearing notice of which shall be advertised once in a local newspaper no less than 14 days prior to said hearing. In addition a written notice shall be sent to the Street Artists Guild no less than 10 days prior to said hearing; or

(2) By decision of the Chief of Police in the case of an emergency: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

(3) By decision of the Commissioner of Public Works in the case of an emergency regarding a park or playground: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

G. Penalties.

1. Noncriminal disposition

Whoever violates any provision of this section may be penalized by a noncriminal disposition as provided in G.L. c. 40,

s. 21D. For purposes of this section, the following officials shall be enforcing persons: Police Officers and ~~Parking Control Officers~~ Cambridge Arts Council staff. The penalty for each violation will be \$25.

2. Suspension of permit

The ~~License Commission~~ Cambridge Arts Council may suspend a permit for no more than 60 days if a performer is found to have knowingly provided false information in the application. Before suspending a permit, the ~~License Commission~~ Arts Council must hold a public hearing, after 10 days written notice to the performer setting forth the facts constituting the basis for the proposed suspension.

H. Exclusivity

The provisions of this section take precedence over any other City regulations or ordinance applicable to Street Performances. To the extent other City regulations or ordinances are applicable and are inconsistent with this section, this section shall govern. Sound levels generated by Street Performances shall be governed by this section and not by the Cambridge City Noise Ordinance.

I. Severability

The provisions of this section are severable, and if any part of this section should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the

9. SEVERABILITY

*
Amend to
include language
re: non-disturbance
of the area

section and the remainder of the section shall stay in full force and effect.



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9017

JOSEPH E. CONNARTON
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

June 14, 1990

Mr. Russell B. Higley
City Solicitor
City Hall
Cambridge, MA 02139

Dear Mr. Higley:

Enclosed you will find a copy of a proposed amendment to the Municipal Code of the City of Cambridge to regulate Street Performers which was passed to a second reading as amended at the City Council meeting held on June 11, 1990.

Would you kindly review this amendment and indicate your approval or disapproval on the bottom and return to this office.

Your kind attention in this matter will be greatly appreciated.

Sincerely yours,

A handwritten signature in cursive script that reads "Joseph E. Connarton".

Joseph E. Connarton
City Clerk

JEC/dl

Enc. First publication number 2495

c.c. Councillor Duehay, Chairman, Committee on Ordinances
Joseph Cellucci, Commissioner of Inspectional Services
Birge Albright, Law Department



City of Cambridge

In the Year One Thousand, Nine Hundred Ninety

AN ORDINANCE

In amendment to an ordinance formerly entitled: "The Municipal Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

Chapter 12.16 of the Code (Street and Sidewalk Use Regulations) is hereby amended by adding thereto the following new section 12.16.160 (Street performers):

12.16.160 Street performers

The City Council finds that the existence in the City of Street Performers provides a public amenity that enhances the character of the City and seeks to encourage such performances to the extent that they do not interfere with the reasonable expectations of residents to the enjoyment of peace and quiet in their homes. This Ordinance seeks to balance the interests of the performers with those of the residents of the City.

The City Council hereby designates the Arts Council of the City to be the agent of the City primarily charged with the responsibility of supervising the provisions of this Ordinance.

A. Definitions

1. "Perform" includes, but is not limited to, the following activities: acting, singing, playing musical instruments,

pantomime, juggling, magic, dancing, reading and reciting.

2. "Performer" means a person who has obtained a permit pursuant to this section.

3. "Public areas" means public sidewalks, parks, playgrounds and all public ways in Cambridge.

B. Prohibition

No person may perform in a public area without a permit issued pursuant to subsection C of this section.

C. Permit

1. A permit shall be issued by the Cambridge Arts Council to each applicant therefor in exchange for a completed application and a fee of \$25.

2. A completed application for a permit, and the permit itself, shall contain the applicant's name, residence address and telephone number, and shall be signed by the applicant.

3. A permit shall be valid from the date on which it is issued through the end of that year.

4. A permit shall be non-transferable, and shall contain the permit number of the applicant and the year in which the permit is valid. Each member of a group of performers who play together shall be required to obtain an individual permit.

5. Upon issuing a permit, the Arts Council shall also give the performer a copy of this section.

D. Display of permit

A performer shall carry the permit on his or her person while

performing, and shall show it to any Cambridge Police Officer or staff person of the Cambridge Arts Council on request.

E. Permitted performances

1. Performances may take place in the following locations:

In public areas, except within 100 feet of an elementary and/or secondary school, library, or church while in session, a hospital at any time, and except public areas excluded by the City Council, the Commissioner of Public Works, or the Chief of Police pursuant to subsection F of this section;

On private property, with the written permission of the owner or other person in control of such property;

In public areas where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.

2. Performances may take place at the following times:

Monday through Thursday, between 9:00 a.m. and 11:00 p.m.

Friday, between 9:00 a.m. and 11:00 p.m.

Saturday, between 9:00 a.m. and 11:00 p.m.

Sunday, between 10:00 a.m. and 11:00 p.m.

3. No performer or group of performers may generate noise exceeding a median sound level of 80 decibels measured at a distance of 50 feet from the performer or group of performers. A performer or group of performers may use sound amplification as long as this sound level is not exceeded. Upon a complaint by a resident the designated staff of the Cambridge Arts Council shall, measure the sound level at the lot line of the residential

dwelling. If the sound level exceeds a median sound level of 60 decibels in the daytime or a median sound level of 50 decibels in the nighttime, as defined in the City's Noise Ordinance, the performer(s) causing the excessive sound level shall either turn down the music or move to a distance from the residence so as to reduce the sound level within these limitations, providing that the music noise level being measured exceeds the background noise by at least 10 dB(A). Background noise for this purpose shall mean L_{50} .

4. A performer may not create an undue interference with the passage of the public through a public area. If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. The police officer shall not cause the performer to leave the location unless efforts to move the crowd fail to adequately protect the public safety or order. A police officer shall not ask the performer to leave the location unless all other means of restoring the public safety or order have been exhausted.

5. No performer or group of performers may perform less than 50 feet from another performer or group of performers.

6. A performer may request contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12" x 18" in size. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat. Performers may offer for sale representations

of their own work, including but not limited to photos, records, cassettes, videotapes or compact discs. No display of such representations of the performer's own work shall exceed more than twenty-five percent of the width of the sidewalk from the property line of the premises in front of which the display is installed. In public areas other than sidewalks, no such display shall exceed twenty-five square feet, and it shall be prohibited to place a carpet, rug, blanket, or other such covering over grass in a public place.

F. Exclusion of public areas

(1) A specific public area may be excluded from performances in accordance with constitutional standards by decision of the City Council after a public hearing notice of which shall be advertised once in a local newspaper no less than 14 days prior to said hearing. In addition a written notice shall be sent to the Street Artists Guild no less than 10 days prior to said hearing; or

(2) By decision of the Chief of Police in the case of an emergency: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

(3) By decision of the Commissioner of Public Works in the case of an emergency regarding a park or playground: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

G. Penalties.

1. Noncriminal disposition

Whoever violates any provision of this section may be penalized by a noncriminal disposition as provided in G.L. c. 40, s. 21D. For purposes of this section, the following officials shall be enforcing persons: Police Officers and Cambridge Arts Council staff. The penalty for each violation will be \$25.

2. Suspension of permit

The Cambridge Arts Council and/or the Cambridge Police will suspend a permit for no more than 30 days if a performer is found to have knowingly provided false information in the application and/or has at least on two separate occasions exceeded the appropriate median sound levels. Before suspending a permit, the Arts Council must hold a public hearing, after 10 days written notice to the performer setting forth the facts constituting the basis for the proposed suspension.

H. Exclusivity

The provisions of this section take precedence over any other City regulations or ordinance applicable to Street Performances. To the extent other City regulations or ordinances are applicable and are inconsistent with this section, this section shall govern. Sound levels generated by Street Performances shall be governed by this section and not by the Cambridge City Noise Ordinance.

I. Peace and Quiet

A performance in accordance with this Ordinance shall be presumed not to constitute a disturbance of the peace or quiet.

J. Severability

The provisions of this section are severable, and if any part of this section should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the section and the remainder of the section shall stay in full force and effect.

Passed to a second reading as amended at the City Council meeting held on June 11, 1990 and on or after June 25, 1990 the question comes on passing to be ordained.

ATTEST:- Joseph E. Connarton,
City Clerk.

DRAFT-June 7, 1990

In amendment to an ordinance formerly entitled: "The General Ordinances of the City of Cambridge," as revised in 1972, and now designated as "The Code of the City of Cambridge."

Chapter 12.16 of the Code (Street and Sidewalk Use Regulations) is hereby amended by adding thereto the following new section 12.16.160 (Street performers):

12.16.160 Street performers

The City Council finds that the existence in the City of Street Performers provides a public amenity that enhances the character of the City and seeks to encourage such performances to the extent that they do not interfere with the reasonable expectations of residents to the enjoyment of peace and quiet in their homes. This Ordinance seeks to balance the interests of the performers with those of the residents of the City.

The City Council hereby designates the Arts Council of the City to be the agent of the City primarily charged with the responsibility of supervising the provisions of this Ordinance.

A. Definitions

1. "Perform" includes, but is not limited to, the following activities: acting, singing, playing musical instruments,

pantomime, juggling, magic, dancing, reading and reciting.

2. "Performer" means a person who has obtained a permit pursuant to this section.

3. "Public areas" means public sidewalks, parks, playgrounds and all public ways in Cambridge.

B. Prohibition

No person may perform in a public area without a permit issued pursuant to subsection C of this section.

C. Permit

1. A permit shall be issued by the ~~Cambridge License Commission~~ Cambridge Arts Council to each applicant therefor in exchange for a completed application and a fee of ~~\$10~~ \$25.

2. A completed application for a permit, and the permit itself, shall contain the applicant's name, residence address and telephone number, and shall be signed by the applicant.

3. A permit shall be valid from the date on which it is issued through the end of that year.

4. A permit shall be non-transferable, and shall contain the permit number of the applicant and the year in which the permit is valid. Each member of a group of performers who play together shall be required to obtain an individual permit.

5. Upon issuing a permit, the ~~License Commission~~ Arts Council shall also give the performer a copy of this section.

D. Display of permit

A performer shall carry the permit on his or her person while performing, and shall show it to any Cambridge Police Officer or

~~Parking Control Officer~~ or staff person of the Cambridge Arts Council on request.

E. Permitted performances

1. Performances may take place in the following locations:

In public areas, except within 100 feet of a school, library, or church while in session, a hospital at any time, and except public areas excluded by the City Council, the Commissioner of Public Works, or the Chief of Police pursuant to subsection F of this section;

On private property, with the written permission of the owner or other person in control of such property;

In public areas where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.

2. Performances may take place at the following times:

Monday through Thursday, between 9:00 a.m. and ~~10:00~~ 11:00 p.m.

Friday, between 9:00 a.m. and ~~11:00~~ 12:00 a.m.

Saturday, between 9:00 a.m. and ~~11:00~~ 12:00 a.m.

Sunday, between 10:00 a.m. and ~~10:00~~ 11:00 p.m.

3. No performer or group of performers may generate noise exceeding a median sound level of 80 decibels measured at a distance of 50 feet from the performer or group of performers. A performer or group of performers may use sound amplification as long as this sound level is not exceeded. Upon a complaint by a resident the designated staff of the Cambridge Arts Council shall,

with the permission of the resident, measure the sound level from inside the residential dwelling. If the sound level exceeds a mean sound level of 60 decibels in the daytime or a mean sound level of 50 decibels in the nighttime, as defined in the City's Noise Ordinance, the performer(s) causing the excessive sound level shall move to a distance from the residence sufficient to reduce the sound level within these limitations.

4. A performer may not create an undue interference with the passage of the public through a public area. If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. The police officer shall not cause the performer to leave the location unless efforts to move the crowd fail to adequately protect the public safety or order. A police officer shall not ask the performer to leave the location unless all other means of restoring the public safety or order have been exhausted. ~~the location.~~

5. No performer or group of performers may perform less than 50 feet from another performer or group of performers.

6. A performer may request contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12" x 18" in size. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat. Performers may offer for sale representations of their own work, including but not limited to photos, records, cassettes, videotapes or compact discs. No display of such

representations of the performers own work shall exceed more than twenty-five percent of the width of the sidewalk from the property line of the premises in front of which the display is installed. In public areas other than sidewalks, no such display shall exceed twenty-five square feet, and it shall be prohibited to place a carpet, rug, blanket, or other such covering over grass in a public place.

F. Exclusion of public areas

(1) A specific public area may be excluded from performances in accordance with constitutional standards by decision of the City Council after a public hearing notice of which shall be advertised once in a local newspaper no less than 14 days prior to said hearing. In addition a written notice shall be sent to the Street Artists Guild no less than 10 days prior to said hearing; or

(2) By decision of the Chief of Police in the case of an emergency: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

(3) By decision of the Commissioner of Public Works in the case of an emergency regarding a park or playground: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

G. Penalties.

1. Noncriminal disposition

Whoever violates any provision of this section may be penalized by a noncriminal disposition as provided in G.L. c. 40,

s. 21D. For purposes of this section, the following officials shall be enforcing persons: Police Officers and ~~Parking Control Officers~~ ~~Cambridge Arts Council staff~~. The penalty for each violation will be \$25.

2. Suspension of permit

The ~~License Commission~~ ~~Cambridge Arts Council~~ may suspend a permit for no more than 60 days if a performer is found to have knowingly provided false information in the application. Before suspending a permit, the ~~License Commission~~ ~~Arts Council~~ must hold a public hearing, after 10 days written notice to the performer setting forth the facts constituting the basis for the proposed suspension.

H. Exclusivity

The provisions of this section take precedence over any other City regulations or ordinance applicable to Street Performances. To the extent other City regulations or ordinances are applicable and are inconsistent with this section, this section shall govern. Sound levels generated by Street Performances shall be governed by this section and not by the Cambridge City Noise Ordinance.

I. Severability

The provisions of this section are severable, and if any part of this section should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the

section and the remainder of the section shall stay in full force and effect.

DRAFT-June 11, 1990

In amendment to an ordinance formerly entitled: "The General Ordinances of the City of Cambridge," as revised in 1972, and now designated as "The Code of the City of Cambridge."

Chapter 12.16 of the Code (Street and Sidewalk Use Regulations) is hereby amended by adding thereto the following new section 12.16.160 (Street performers):

12.16.160 Street performers

The City Council finds that the existence in the City of Street Performers provides a public amenity that enhances the character of the City and seeks to encourage such performances to the extent that they do not interfere with the reasonable expectations of residents to the enjoyment of peace and quiet in their homes. This Ordinance seeks to balance the interests of the performers with those of the residents of the City.

The City Council hereby designates the Arts Council of the City to be the agent of the City primarily charged with the responsibility of supervising the provisions of this Ordinance.

A. Definitions

1. "Perform" includes, but is not limited to, the following activities: acting, singing, playing musical instruments,

pantomime, juggling, magic, dancing, reading and reciting.

2. "Performer" means a person who has obtained a permit pursuant to this section.

3. "Public areas" means public sidewalks, parks, playgrounds and all public ways in Cambridge.

B. Prohibition

No person may perform in a public area without a permit issued pursuant to subsection C of this section.

C. Permit

1. A permit shall be issued by the ~~Cambridge License Commission~~ ~~Cambridge Arts Council~~ to each applicant therefor in exchange for a completed application and a fee of ~~\$10~~ \$25.

2. A completed application for a permit, and the permit itself, shall contain the applicant's name, residence address and telephone number, and shall be signed by the applicant.

3. A permit shall be valid from the date on which it is issued through the end of that year.

4. A permit shall be non-transferable, and shall contain the permit number of the applicant and the year in which the permit is valid. ~~Each member of a group of performers who play together shall be required to obtain an individual permit.~~

5. Upon issuing a permit, the ~~License Commission~~ ~~Arts Council~~ shall also give the performer a copy of this section.

D. Display of permit

A performer shall carry the permit on his or her person while

performing, and shall show it to any Cambridge Police Officer or ~~Parking Control Officer~~ or staff person of the Cambridge Arts Council on request.

E. Permitted performances

1. Performances may take place in the following locations:

In public areas, except within 100 feet of a school, library, or church while in session, a hospital at any time, and except public areas excluded by the City Council, the Commissioner of Public Works, or the Chief of Police pursuant to subsection F of this section;

On private property, with the written permission of the owner or other person in control of such property;

In public areas where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.

2. Performances may take place at the following times:

Monday through Thursday, between 9:00 a.m. and ~~10:00~~ 11:00 p.m.

Friday, between 9:00 a.m. and ~~11:00~~ ~~12:00 a.m.~~ 11:00 p.m.

Saturday, between 9:00 a.m. and ~~11:00~~ ~~12:00 a.m.~~ 11:00 p.m.

Sunday, between 10:00 a.m. and ~~10:00~~ 11:00 p.m.

3. No performer or group of performers may generate noise exceeding a median sound level of 80 decibels measured at a distance of 50 feet from the performer or group of performers. A performer or group of performers may use sound amplification as long as this sound level is not exceeded. Upon a complaint by a

resident the designated staff of the Cambridge Arts Council shall, with the permission of the resident, measure the sound level from inside the residential dwelling. If the sound level exceeds a median sound level of 60 decibels in the daytime or a median sound level of 50 decibels in the nighttime, as defined in the City's Noise Ordinance, the performer(s) causing the excessive sound level shall either turn down the music or move to a distance from the residence so as to reduce the sound level within these limitations, providing that the music noise level being measured exceeds the background noise by at least 10 dB(A). Background noise for this purpose shall mean L_{90} .

4. A performer may not create an undue interference with the passage of the public through a public area. If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. The police officer shall not cause the performer to leave the location unless efforts to move the crowd fail to adequately protect the public safety or order. A police officer shall not ask the performer to leave the location unless all other means of restoring the public safety or order have been exhausted.

~~the location.~~

5. No performer or group of performers may perform less than 50 feet from another performer or group of performers.

6. A performer may request contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12" x 18" in size. Contributions may be

received in any receptacle, such as an open musical instrument case, box or hat. Performers may offer for sale representations of their own work, including but not limited to photos, records, cassettes, videotapes or compact discs. No display of such representations of the performers own work shall exceed more than twenty-five percent of the width of the sidewalk from the property line of the premises in front of which the display is installed. In public areas other than sidewalks, no such display shall exceed twenty-five square feet, and it shall be prohibited to place a carpet, rug, blanket, or other such covering over grass in a public place.

F. Exclusion of public areas

(1) A specific public area may be excluded from performances in accordance with constitutional standards by decision of the City Council after a public hearing notice of which shall be advertised once in a local newspaper no less than 14 days prior to said hearing. In addition a written notice shall be sent to the Street Artists Guild no less than 10 days prior to said hearing; or

(2) By decision of the Chief of Police in the case of an emergency: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

(3) By decision of the Commissioner of Public Works in the case of an emergency regarding a park or playground: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

G. Penalties.

1. Noncriminal disposition

Whoever violates any provision of this section may be penalized by a noncriminal disposition as provided in G.L. c. 40, s. 21D. For purposes of this section, the following officials shall be enforcing persons: Police Officers and ~~Parking Control Officers~~ ~~Cambridge Arts Council staff~~. The penalty for each violation will be \$25.

2. Suspension of permit

The ~~License Commission~~ ~~Cambridge Arts Council~~ may suspend a permit for no more than 60 days if a performer is found to have knowingly provided false information in the application. Before suspending a permit, the ~~License Commission~~ ~~Arts Council~~ must hold a public hearing, after 10 days written notice to the performer setting forth the facts constituting the basis for the proposed suspension.

H. Exclusivity

The provisions of this section take precedence over any other City regulations or ordinance applicable to Street Performances. To the extent other City regulations or ordinances are applicable and are inconsistent with this section, this section shall govern. Sound levels generated by Street Performances shall be governed by this section and not by the Cambridge City Noise Ordinance.

I. Peace and Quiet

A performance in accordance with this Ordinance shall be presumed not to constitute a disturbance of the peace or quiet.

J. Severability

The provisions of this section are severable, and if any part of this section should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the section and the remainder of the section shall stay in full force and effect.



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9017

600 JUN -4 PM 4:55

CAMBRIDGE MA.

JOSEPH E. CONNARTON
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

June 5, 1990

TO: Members of the Ordinance Committee

FROM: Mr. Joseph E. Connarton, City Clerk *qsc*

SUBJECT: Ordinance Committee Meeting

Please be advised that Councillor Francis H. Duehay, Chair of the above Committee has scheduled a hearing for Thursday, June 7, 1990 at 6:00 p.m. in the Sullivan Chamber, City Hall.

The purpose of this hearing will be to consider the Street Performers Ordinance.

You are requested to attend at this time.

s

cc: Councillor Francis H. Duehay, Chair



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
TEL 498-9011

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

March 23, 1990

To the Honorable the City Council:

I am transmitting the attached proposed Street Performers Ordinance for your review and appropriate action.

As you may know, the City currently has a Regulation of Street Performances included as part of the Traffic regulations (copy attached). Several weeks ago Attorney Diana Stallone who represents the Street Artists Guild contacted the Law Department and my office indicating that her clients are prepared to challenge the validity of the existing regulation in the Federal District Court. The Law Department has concluded that the existing regulation is vulnerable to such a legal challenge.

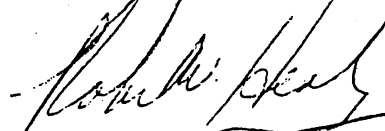
I met with Attorney Stallone and several of her clients. The Guild very reasonably suggested that rather than engage in expensive litigation it might be more constructive to propose an ordinance that does not impose impermissible restrictions. I asked the Law Department to prepare the attached draft ordinance.

I am advised by the Law Department that the courts have recognized street performances as protected expression under the First Amendment to the United States Constitution. Therefore, any regulation of such activity must strike a careful balance between the performer's right to free expression and important governmental interests that are accomplished by the least restrictive means available. The drafting of the attached proposed ordinance was guided by these principles.

I am submitting the attached proposed ordinance in order to begin the appropriate process and debate by the City Council. I believe that the members of the Guild do not agree with all of the provisions of this draft. I also believe that city officials who may be involved in the administration or enforcement of the ordinance may desire different measures. I think that the public debate process of ordination will identify those areas of dispute.

I also believe that any changes contemplated by the City Council should be carefully reviewed by the Law Department given the strict standards of review involved in this area of free expression

Very truly yours

A handwritten signature in cursive script, appearing to read "Robert W. Healy", written in black ink. The signature is fluid and somewhat stylized, with a long horizontal stroke at the end.

Robert W. Healy

RWH/dad



City of Cambridge

In the Year One Thousand, Nine Hundred Ninety

AN ORDINANCE

In amendment to an ordinance formerly entitled: "The General Ordinances of the City of Cambridge," as revised in 1972, and now designated as "The Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

Chapter 12.16 of the Code (Street and Sidewalk Use Regulations) is hereby amended by adding thereto the following new section 12.16.160 (Street performers):

12.16.160 Street performers

A. Definitions

1. "Perform" includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading and reciting.

2. "Performer" means a person who has obtained a permit pursuant to this section.

3. "Public areas" means public sidewalks, parks, playgrounds and all public ways in Cambridge.

B. Prohibition

No person may perform in a public area without a permit issued pursuant to subsection C of this section.

C. Permit

1. A permit shall be issued by the Cambridge License Commission to each applicant therefor in exchange for a completed application and a fee of \$10.

2. A completed application for a permit, and the permit itself, shall contain the applicant's name, residence address and telephone number, and shall be signed by the applicant.

3. A permit shall be valid from the date on which it is issued through the end of that year.

4. A permit shall be non-transferable, and shall contain the permit number of the applicant and the year in which the permit is valid.

5. Upon issuing a permit, the License Commission shall also give the performer a copy of this section.

D. Display of permit

A performer shall carry the permit on his or her person while performing, and shall show it to any Cambridge Police Officer or Parking Control Officer on request.

E. Permitted performances

1. Performances may take place in the following locations:

In public areas, except within 100 feet of a school or church while in session, and except public areas excluded by the City Council or the Chief of Police pursuant to subsection F of this

section;

On private property, with the written permission of the owner or other person in control of such property;

In public areas where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.

2. Performances may take place at the following times:

Monday through Thursday, between 9:00 a.m. and 10:00 p.m.

Friday, between 9:00 a.m. and 11:00 p.m.

Saturday, between 9:00 a.m. and 11:00 p.m.

Sunday, between 10:00 a.m. and 10:00 p.m.

3. No performer or group of performers may generate noise exceeding 80 decibels measured at a distance of 50 feet from the performer or group of performers. A performer or group of performers may use sound amplification as long as this sound level is not exceeded.

4. A performer may not create an undue interference with the passage of the public through a public area. If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. The police officer shall not cause the performer to leave the location unless efforts to move the crowd fail to adequately protect the public safety or order. A police officer shall not ask the performer to leave the location unless all other means of restoring the public safety or order have been exhausted.

5. No performer or group of performers may perform less than 50 feet from another performer or group of performers.

6. A performer may request contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12" x 18" in size. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat. Performers may offer for sale representations of their own work, including but not limited to photos, records, cassettes, videotapes or compact discs. No display of such representations of the performers own work shall exceed more than twenty-five percent of the width of the sidewalk from the property line of the premises in front of which the display is installed. In public areas other than sidewalks, no such display shall exceed twenty-five square feet.

F. Exclusion of public areas

(1) A specific public area may be excluded from performances in accordance with constitutional standards by decision of the City Council after a public hearing notice of which shall be advertised once in a local newspaper no less than 14 days prior to said hearing. In addition a written notice shall be sent to the Street Artists Guild no less than 10 days prior to said hearing; or

(2) By decision of the Chief of Police in the case of an emergency: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

G. Penalties.

1. Noncriminal disposition

Whoever violates any provision of this section may be penalized by a noncriminal disposition as provided in G.L. c. 40, s. 21D. For purposes of this section, the following officials shall be enforcing persons: Police Officers and Parking Control Officers. The penalty for each violation will be \$25.

2. Suspension of permit

The License Commission may suspend a permit for no more than 60 days if a performer is found to have knowingly provided false information in the application. Before suspending a permit, the License Commission must hold a public hearing, after 10 days written notice to the performer setting forth the facts constituting the basis for the proposed suspension.

H. Exclusivity

The provisions of this section take precedence over any other City regulations or ordinance applicable to Street Performances. To the extent other City regulations or ordinances are applicable and are inconsistent with this section, this section shall govern. Sound levels generated by Street Performances shall be governed by this section and not by the Cambridge City Noise Ordinance.

I. Severability

The provisions of this section are severable, and if any part of this section should be held invalid by a court of competent

jurisdiction, such invalidity shall not affect the remainder of the section and the remainder of the section shall stay in full force and effect.

Regulation of Street Performances

Sec. 1 Definitions

- (a) "Perform" — includes acting, singing, playing musical instruments, juggling, dancing and reading.
- (b) "Public Areas" — (1) public ways, traffic islands and sidewalks located in the City of Cambridge and (2) such public parks and playgrounds or parts thereof located in the City of Cambridge as may from time to time be designated by the Commissioner of Public Works.

Sec. 2 Prohibitions

No person or group of persons may perform in a public area or for an audience which is present in a public area without a permit issued as provided in Section 3.

Sec. 3 Permit

- (a) A permit shall be issued jointly by the Commissioner of Public Works, Director of Traffic and Parking and the Chief of Police (the issuers) of the City of Cambridge.
- (b) A permit shall include the name and residence address of the holder.
- (c) A permit shall expire on Dec. 31 of the year in which it was issued.
- (d) The fee to obtain a permit shall be \$5.00.
- (e) The Department of Traffic and Parking (the DTP) shall be the issuers' agent to receive applications for and to issue permits hereunder, but the DTP shall have no power acting alone to deny, suspend, or revoke a permit.
- (f) Each application for a permit shall contain the applicant's name, residence address, telephone number and, if applicable, the number of persons to perform in such group, and shall be signed by the applicant.
- (g) Upon receipt of a completed, signed application the DTP shall give the applicant a copy of these regulations, and after the applicant has read them, shall issue the permit to the applicant unless the applicant holds a permit which was revoked under Sec. 7 and the period of suspension or revocation has not expired.

Sec. 4 Display of Permit

A permit holder shall carry the permit on his or her person while performing, and shall show it to any police officer of the City of Cambridge upon request.

Sec. 5 Permitted Performances

A holder of a permit hereunder and the persons in the holder's group named in permit may perform in a public area, subject to the following conditions:

- (a) Performances may take place
- (1) In such public areas as may from time to time be designated by the issuers.
- (2) On private property, with the written permission of the owner or other person in control of such property.
- (3) In public area where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.
- (b) Performances under Subsections (a) (1) and (a) (2) may take place between 1:00 p.m. and 10:00 p.m. unless otherwise allowed by the Director of Traffic & Parking.
- (c) A performer may not use electric or electronic amplification. ✓
- (d) A permit holder may request contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12" x 18" in size. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat.
- (e) A permit may not block passage over a public way or sidewalk except as permitted by the sponsor of an event under Subsection (a) (3) or otherwise allowed by the Director of Traffic & Parking.

Sec. 6 Designations of Public Areas

Designations of areas under Sec. 5 (a) (1) shall be in writing and a copy of the most recent designations shall be given to each applicant for a permit. Any change in the areas designated may be made only after written notice to each permit holder, except that performances may be prohibited without notice in a public area during any emergency.

Sec. 7 Peace and Quiet

A performance in accordance with Sec. 5 shall be presumed not to constitute a disturbance of the peace or quiet.

Sec. 8 Revocation of Permit

The issuers may suspend a permit for not more than 60 days or revoke it if:

- (a) Any information contained in the application is found to be false.
- (b) The holder violates any of these regulations. After revocation of a permit, the former holder may not obtain a new permit until such date as the issuers may determine, which shall not be more than 1 year from the date of revocation. No permit may be suspended or revoked unless the issuers hold a public hearing on the suspension or revocation, written notice of which has to be given to the permit holder not less than 7 days prior thereto. Such notice shall set forth the facts constituting the basis for the proposed suspension or revocation.

Sec. 9 Regulations

These regulations are issued jointly by the issuers and may be amended by them after a public hearing, notice of which has been given in writing to the persons then holding permits and published in a newspaper of general circulation in Cambridge at least 7 days prior thereto.

The street musicians mistakenly claim that their first amendment rights to freedom of expression are being violated when they are prevented from expressing themselves at a level or in such a manner as to interfere with the rights of other individuals. The MGL endows cities and towns with the right to abate noise if it is consistent with the law. Thus, to permit anyone or anything to violate or interfere with the rights of any other person is in fact repugnant to and inconsistent with law.

In the foregoing case, first amendment rights to freedom of speech were restricted so as not to interfere with the rights to a protection of invasion of privacy of others. While I recognize that the city may feel obligated to allow an outlet for artistic expression, it must in doing so not endanger the rights of residents to a protection of privacy and their right not to listen, therefore. It is clear from constitutional case law that not anytime and anywhere is such artistic expression to be permitted by a municipality.

The proposed Street Performers Ordinance is not only an invasion of privacy to residents, its is inconsistent and repugnant to established codes and law as exemplified by the objection to same by residents and the examples of restriction of such noise by other cities and towns throughout the Commonwealth.

I have collected information relative to the ordinances promulgated by other cities and towns throughout Massachusetts and have in no case found the permissible hour of noise to be past that of 11 p.m. seven days a week - and this was in the city of Boston whose population is several times greater than that of Cambridge. The proposed Cambridge ordinance should in fact therefore be more restrictive but certainly no less restrictive than the largest of the state's cities. In the city of Boston loud music is in fact considered a disturbance of the peace and as such is controllable by law. Their ordinance reads "Prohibiting excessive noise which disturbs the peace of residential neighborhoods." They go on to define a disturbance of the peace as any unreasonable or excessive loud instrument or musical band or orchestra and amplifiers which emit noise above 50 Db between 11 pm and 7 am seven days a week. The measure of 50 Db is when measured not nearer than the lot line of a residential lot or the nearest dwelling unit. Anyone aggrieved by such disturbance must complain to the police who use a sound meter to determine the level of noise. Boston indicated that their police force is in fact trained, and easily so, to use these meters.

I would point out examples of other towns and the fact that their hours are more restrictive. *BOSTON, WORCESTER, SPRINGFIELD, BROOKLINE, QUINCY*

In addition to noise constituting an invasion of privacy, it is also a hazard to health as i have on a previous occasion stated and have supplied you with ample reference materials collected from the accepted medical literature to support this position.

*Induced stress reactions
sleep deprivation
agitation & high blood pressure*

I urge you to turn the responsibility of enforcement over to the police and to consider that training police to use the meters is more likely a less costly option than hiring an person to measure decibles. In addition poice enforcement is a more expedient and effective means of controlling excessive noise in the small vicinity to which this ordinace has been specifically targeted. It would be unfair and cruel for the city council to prioritize the rights of street performers over the rights to privacy of individuals who are helpless to protect themselves against the damaging effects of excessive and unrelenting noise.

As a person who is only asking for peace and the ability to rest in my home at night, I beg your consideration for my health, my well being and my right to privacy and peace.

Sincerely,

Daralyn Khan

City of Cambridge

MASSACHUSETTS

In City Council

June 11

1990

C. Dasher

Passed on 2nd Reading & Amended

	YEA	NAY	ABSENT	PRESENT
Mr. Ed Cyr	4 ⁽¹³⁾	1 ⁽³⁾		
Mr. Francis H. Duehay	1 ⁽²⁾	4 ⁽⁰⁾		
Mr. Jonathan S. Myers		1		
Mr. Kenneth E. Reeves		1		
Mrs. Sheila T. Russell	1			
Mr. Walter J. Sullivan	1			
Mr. Timothy J. Toomey, Jr.	1			
Mr. William H. Walsh	1			
Mayor Alice K. Wolf		1		

5

4

City of Cambridge

MASSACHUSETTS

In City Council _____ 199

C. Cyr

Moved Consideration of lot line Amendment

	YEA	NAY	ABSENT	PRESENT
Mr. Ed Cyr	✓			
Mr. Francis H. Duehay	✓			
Mr. Jonathan S. Myers	✓			
Mr. Kenneth E. Reeves	✓			
Mrs. Sheila T. Russell		✓		
Mr. Walter J. Sullivan		✓		
Mr. Timothy J. Toomey, Jr.		✓		
Mr. William H. Walsh		✓		
Mayor Alice K. Wolf	✓			

5 4

Failed

City of Cambridge

MASSACHUSETTS

In City Council

June 11

1990

C. Walsh

Amend Section 3 to add - the prohibition

*of street performers no less than 150 feet from
a sidewalk*

	YEA	NAY	ABSENT	PRESENT
Mr. Ed Cyr			✓	
Mr. Francis H. Duehay		✓		
Mr. Jonathan S. Myers		✓		
Mr. Kenneth E. Reeves		✓		
Mrs. Sheila T. Russell	✓			
Mr. Walter J. Sullivan	✓			
Mr. Timothy J. Toomey, Jr.	✓			
Mr. William H. Walsh	✓			
Mayor Alice K. Wolf		✓		

4 4 1

Failed by Adoption

①

City of Cambridge

MASSACHUSETTS

In City Council

June 11

1990

C. Russell

Section 3 E-3 line 3 156 ft from Inside

a residential dwelling to all the lot line of a dwelling

	YEA	NAY	ABSENT	PRESENT
Mr. Ed Cyr	✓			
Mr. Francis H. Duehay		✓		
Mr. Jonathan S. Myers		✓		
Mr. Kenneth E. Reeves		✓		
Mrs. Sheila T. Russell	✓			
Mr. Walter J. Sullivan	✓			
Mr. Timothy J. Toomey, Jr.	✓			
Mr. William H. Walsh	✓			
Mayor Alice K. Wolf	✓			

6 3

City of Cambridge

MASSACHUSETTS

In City Council

June 11

1990

or Secondary

C. Myers

Add Elementary & Public School / Section

	<i>E-1 to Proposed</i>	<i>Street</i>	<i>Reformers</i>	<i>Ordinance</i>
	YEA	NAY	ABSENT	PRESENT
Mr. Ed Cyr	✓			
Mr. Francis H. Duehay	✓			
Mr. Jonathan S. Myers	✓			
Mr. Kenneth E. Reeves	✓			
Mrs. Sheila T. Russell		✓		
Mr. Walter J. Sullivan		✓		
Mr. Timothy J. Toomey, Jr.		✓		
Mr. William H. Walsh		✓		
Mayor Alice K. Wolf	✓			

5

4

0

City of Cambridge

MASSACHUSETTS

In City Council June 11 1990

C. Myers

St. Vibe School - E-1

	YEA	NAY	ABSENT	PRESENT
Mr. Ed Cyr			✓	
Mr. Francis H. Duehay	✓			
Mr. Jonathan S. Myers	✓			
Mr. Kenneth E. Reeves	✓			
Mrs. Sheila T. Russell		✓		
Mr. Walter J. Sullivan		✓		
Mr. Timothy J. Toomey, Jr.		✓		
Mr. William H. Walsh		✓		
Mayor Alice K. Wolf		✓		

3

5

1

Failed of Adoption

City of Cambridge

MASSACHUSETTS

In City Council _____ 199

C. Myers

Add Maximum Fee of \$100.

Pg. 2 Section C-1

	YEA	NAY	ABSENT	PRESENT
Mr. Ed Cyr		✓		
Mr. Francis H. Duehay	✓			
Mr. Jonathan S. Myers	✓			
Mr. Kenneth E. Reeves	✓			
Mrs. Sheila T. Russell		✓		
Mr. Walter J. Sullivan		✓		
Mr. Timothy J. Toomey, Jr.		✓		
Mr. William H. Walsh		✓		
Mayor Alice K. Wolf	✓			

4 5

Failed 3 Adoption



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9017

100 JUN -6 PM 4:55

CAMBRIDGE MA.

JOSEPH E. CONNARTON
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

June 5, 1990

TO: Members of the Ordinance Committee

FROM: Mr. Joseph E. Connarton, City Clerk *JEC*

SUBJECT: Ordinance Committee Meeting

Please be advised that Councillor Francis H. Duehay, Chair of the above Committee has scheduled a hearing for Thursday, June 7, 1990 at 6:00 p.m. in the Sullivan Chamber, City Hall.

The purpose of this hearing will be to consider the Street Performers Ordinance.

You are requested to attend at this time.

s

cc: Councillor Francis H. Duehay, Chair



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9017

600 JUN -6 PM 4:55

CAMBRIDGE MA.

JOSEPH E. CONNARTON
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

June 5, 1990

TO: Members of the Ordinance Committee

FROM: Mr. Joseph E. Connarton, City Clerk *JEC*

SUBJECT: Ordinance Committee Meeting

Please be advised that Councillor Francis H. Duehay, Chair of the above Committee has scheduled a hearing for Thursday, June 7, 1990 at 6:00 p.m. in the Sullivan Chamber, City Hall.

The purpose of this hearing will be to consider the Street Performers Ordinance.

You are requested to attend at this time.

s

cc: Councillor Francis H. Duehay, Chair



147 Hampshire Street May 18, 1990
Cambridge
Massachusetts 02139 TO: Joe Connarton, City Clerk
617.498.9051

FROM: William Sommers, Commissioner, DEW
William Sommers
Commissioner

Subject: Comments on the Proposed Street Performers Ordinance

I have read the draft of this ordinance and I have a number of comments which I hope can be taken into consideration as this ordinance is considered.

1. While I note that the permits will be issued by the License Commissioner according to this draft, I would point out that under existing ordinances permits for the obstruction of public ways are under the direction of the Commissioner of Public Works and/or Superintendent of Streets. It seems to me that a consistency should be preserved here and that perhaps the permit should be constituted like the demolition permit where there are a number of sign offs. DEW should, in any event, be a signatory.

2. The definition of "public places" includes parks and playgrounds; presumably permits could be granted for any park or playground in the city. As you know many of our smaller parks are quite fragile with the most tenuous ecological systems; we spend large sums of tax dollars just keeping these parks and playgrounds at the bare minimum. In addition, a couple of parks are undergoing repair and the Commons, which has a grassy area that is deteriorating and which we are trying to hold fallow for a year or so, could fall apart completely if street musicians and crowds are allowed to gather. At the same time the playgrounds and the parks available for use are often heavily scheduled for sport, social, neighborhood and information uses. The schedules are kept in cooperation with the DEW and the Recreation Division. Moreover, many of the playgrounds and tot lots, having heavy but casual use, could conflict with the addition of street musicians.

The point is that issuing permits for the use of parks and playgrounds without taking into account the ecological status of the park, the reconstruction that may be going on there and the conflict with other schedules will, I believe, lead to



confusion, frustration and chaos unless the issuance of these permits is coordinated with the Department of Public Works. I believe that Section F should be rewritten to include, in addition to the Chief of Police, the Commissioner of Public Works with respect to parks and playgrounds.

3. Section D (6) allows street performers to collect funds and to sell their products. We have tried hard to limit sellers in the various squares and the parks and playgrounds because of a consistently large number of requests we get for this kind of solicitation; and we envision that the parks and playgrounds and the squares - will be crowded with sellers and solicitors of all kinds once the provision for street musicians is included. For clearly if the street musicians can do it, then we cannot very well hold back on the variety of selling that we are daily asked to approve.

4. The ten dollar fee that is required is a flat fee that will not, in most cases, offset the clean up costs associated with street musicians and the crowds they might draw. With our manpower cut down and expenses trimmed under the current budget we cannot manage to clean up after the larger groups get through. It seems to me that we are here discussing a "user fee" that should bear some relation to the cost and the fee should be graduated depending upon the number involved in the groups to be licensed. I also believe that the fee may be too low. Since the license could be issued for up to a year and since ten dollars per year, or part thereof, in no way offsets the user portion of the cost of administrative and operational work on the parks and playgrounds, we have a user fee that does not reflect a fair share of the costs.

5. Under G, I believe DPW personnel ought to be included under the non-criminal enforcement. This is because both streets, sidewalks and playgrounds come under DPW's jurisdiction and our personnel are already enforcing various sections of the current non-criminal ordinance.

cc: Robert Healy, City Manager
Richard Rossi, Deputy City Manager
Don Drisdell, Lew Department
James MacDavitt, License Commissioner



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
TEL. 498-9011

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

March 23, 1990

To the Honorable the City Council:

I am transmitting the attached proposed Street Performers Ordinance for your review and appropriate action.

As you may know, the City currently has a Regulation of Street Performances included as part of the Traffic regulations (copy attached). Several weeks ago Attorney Diana Stallone who represents the Street Artists Guild contacted the Law Department and my office indicating that her clients are prepared to challenge the validity of the existing regulation in the Federal District Court. The Law Department has concluded that the existing regulation is vulnerable to such a legal challenge.

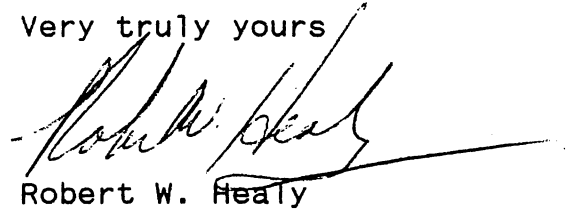
I met with Attorney Stallone and several of her clients. The Guild very reasonably suggested that rather than engage in expensive litigation it might be more constructive to propose an ordinance that does not impose impermissible restrictions. I asked the Law Department to prepare the attached draft ordinance.

I am advised by the Law Department that the courts have recognized street performances as protected expression under the First Amendment to the United States Constitution. Therefore, any regulation of such activity must strike a careful balance between the performer's right to free expression and important governmental interests that are accomplished by the least restrictive means available. The drafting of the attached proposed ordinance was guided by these principles.

I am submitting the attached proposed ordinance in order to begin the appropriate process and debate by the City Council. I believe that the members of the Guild do not agree with all of the provisions of this draft. I also believe that city officials who may be involved in the administration or enforcement of the ordinance may desire different measures. I think that the public debate process of ordination will identify those areas of dispute.

I also believe that any changes contemplated by the City Council should be carefully reviewed by the Law Department given the strict standards of review involved in this area of free expression

Very truly yours

A handwritten signature in cursive script, appearing to read "Robert W. Healy", written in black ink. The signature is fluid and somewhat stylized, with a long horizontal stroke extending to the right.

Robert W. Healy

RWH/dad



City of Cambridge

In the Year One Thousand, Nine Hundred Ninety

AN ORDINANCE

In amendment to an ordinance formerly entitled: "The General Ordinances of the City of Cambridge," as revised in 1972, and now designated as "The Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

Chapter 12.16 of the Code (Street and Sidewalk Use Regulations) is hereby amended by adding thereto the following new section 12.16.160 (Street performers):

12.16.160 Street performers

A. Definitions

1. "Perform" includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading and reciting.

2. "Performer" means a person who has obtained a permit pursuant to this section.

3. "Public areas" means public sidewalks, parks, playgrounds and all public ways in Cambridge.

B. Prohibition

No person may perform in a public area without a permit issued pursuant to subsection C of this section.

C. Permit

1. A permit shall be issued by the Cambridge License Commission to each applicant therefor in exchange for a completed application and a fee of \$10.

2. A completed application for a permit, and the permit itself, shall contain the applicant's name, residence address and telephone number, and shall be signed by the applicant.

3. A permit shall be valid from the date on which it is issued through the end of that year.

4. A permit shall be non-transferable, and shall contain the permit number of the applicant and the year in which the permit is valid.

5. Upon issuing a permit, the License Commission shall also give the performer a copy of this section.

D. Display of permit

A performer shall carry the permit on his or her person while performing, and shall show it to any Cambridge Police Officer or Parking Control Officer on request.

E. Permitted performances

1. Performances may take place in the following locations:
In public areas, except within 100 feet of a school or church while in session, and except public areas excluded by the City Council or the Chief of Police pursuant to subsection F of this

section;

On private property, with the written permission of the owner or other person in control of such property;

In public areas where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.

2. Performances may take place at the following times:

Monday through Thursday, between 9:00 a.m. and 10:00 p.m.

Friday, between 9:00 a.m. and 11:00 p.m.

Saturday, between 9:00 a.m. and 11:00 p.m.

Sunday, between 10:00 a.m. and 10:00 p.m.

3. No performer or group of performers may generate noise exceeding 80 decibels measured at a distance of 50 feet from the performer or group of performers. A performer or group of performers may use sound amplification as long as this sound level is not exceeded.

4. A performer may not create an undue interference with the passage of the public through a public area. If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. The police officer shall not cause the performer to leave the location unless efforts to move the crowd fail to adequately protect the public safety or order. A police officer shall not ask the performer to leave the location unless all other means of restoring the public safety or order have been exhausted.

5. No performer or group of performers may perform less than 50 feet from another performer or group of performers.

6. A performer may request contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12" x 18" in size. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat. Performers may offer for sale representations of their own work, including but not limited to photos, records, cassettes, videotapes or compact discs. No display of such representations of the performers own work shall exceed more than twenty-five percent of the width of the sidewalk from the property line of the premises in front of which the display is installed. In public areas other than sidewalks, no such display shall exceed twenty-five square feet.

F. Exclusion of public areas

(1) A specific public area may be excluded from performances in accordance with constitutional standards by decision of the City Council after a public hearing notice of which shall be advertised once in a local newspaper no less than 14 days prior to said hearing. In addition a written notice shall be sent to the Street Artists Guild no less than 10 days prior to said hearing; or

(2) By decision of the Chief of Police in the case of an emergency: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

G. Penalties.

1. Noncriminal disposition

Whoever violates any provision of this section may be penalized by a noncriminal disposition as provided in G.L. c. 40, s. 21D. For purposes of this section, the following officials shall be enforcing persons: Police Officers and Parking Control Officers. The penalty for each violation will be \$25.

2. Suspension of permit

The License Commission may suspend a permit for no more than 60 days if a performer is found to have knowingly provided false information in the application. Before suspending a permit, the License Commission must hold a public hearing, after 10 days written notice to the performer setting forth the facts constituting the basis for the proposed suspension.

H. Exclusivity

The provisions of this section take precedence over any other City regulations or ordinance applicable to Street Performances. To the extent other City regulations or ordinances are applicable and are inconsistent with this section, this section shall govern. Sound levels generated by Street Performances shall be governed by this section and not by the Cambridge City Noise Ordinance.

I. Severability

The provisions of this section are severable, and if any part of this section should be held invalid by a court of competent

jurisdiction, such invalidity shall not affect the remainder of the section and the remainder of the section shall stay in full force and effect.

Regulation of Street Performances

Sec. 1 Definitions

- (a) "Perform" — includes acting, singing, playing musical instruments, juggling, dancing and reading.
- (b) "Public Areas" — (1) public ways, traffic islands and sidewalks located in the City of Cambridge and (2) such public parks and playgrounds or parts thereof located in the City of Cambridge as may from time to time be designated by the Commissioner of Public Works.

Sec. 2 Prohibitions

No person or group of persons may perform in a public area or for an audience which is present in a public area without a permit issued as provided in Section 3.

Sec. 3 Permit

- (a) A permit shall be issued jointly by the Commissioner of Public Works, Director of Traffic and Parking and the Chief of Police (the issuers) of the City of Cambridge.
- (b) A permit shall include the name and residence address of the holder.
- (c) A permit shall expire on Dec. 31 of the year in which it was issued.
- (d) The fee to obtain a permit shall be \$5.00.
- (e) The Department of Traffic and Parking (the DTP) shall be the issuers' agent to receive applications for and to issue permits hereunder, but the DTP shall have no power acting alone to deny, suspend, or revoke a permit.
- (f) Each application for a permit shall contain the applicant's name, residence address, telephone number and, if applicable, the number of persons to perform in such group, and shall be signed by the applicant.
- (g) Upon receipt of a completed, signed application the DTP shall give the applicant a copy of these regulations, and after the applicant has read them, shall issue the permit to the applicant unless the applicant holds a permit which was revoked under Sec. 7 and the period of suspension or revocation has not expired.

Sec. 4 Display of Permit

A permit holder shall carry the permit on his or her person while performing, and shall show it to any police officer of the City of Cambridge upon request.

Sec. 5 Permitted Performances

A holder of a permit hereunder and the persons in the holder's group named in permit may perform in a public area, subject to the following conditions:

- (a) Performances may take place
 - (1) In such public areas as may from time to time be designated by the issuers.
 - (2) On private property, with the written permission of the owner or other person in control of such property.
 - (3) In public area where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.
- (b) Performances under Subsections (a) (1) and (a) (2) may take place between 1:00 p.m. and 10:00 p.m. unless otherwise allowed by the Director of Traffic & Parking.
- (c) A performer may not use electric or electronic amplification. ✓
- (d) A permit holder may request contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12" x 18" in size. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat.
- (e) A permit may not block passage over a public way or sidewalk except as permitted by the sponsor of an event under Subsection (a) (3) or otherwise allowed by the Director of Traffic & Parking.

Sec. 6 Designations of Public Areas

Designations of areas under Sec. 5 (a) (1) shall be in writing and a copy of the most recent designations shall be given to each applicant for a permit. Any change in the areas designated may be made only after written notice to each permit holder, except that performances may be prohibited without notice in a public area during any emergency.

Sec. 7 Peace and Quiet

A performance in accordance with Sec. 5 shall be presumed not to constitute a disturbance of the peace or quiet.

Sec. 8 Revocation of Permit

The issuers may suspend a permit for not more than 60 days or revoke it if:

- (a) Any information contained in the application is found to be false.
- (b) The holder violates any of these regulations. After revocation of a permit, the former holder may not obtain a new permit until such date as the issuers may determine, which shall not be more than 1 year from the date of revocation. No permit may be suspended or revoked unless the issuers hold a public hearing on the suspension or revocation, written notice of which has to be given to the permit holder not less than 7 days prior thereto. Such notice shall set forth the facts constituting the basis for the proposed suspension or revocation.

Sec. 9 Regulations

These regulations are issued jointly by the issuers and may be amended by them after a public hearing, notice of which has been given in writing to the persons then holding permits and published in a newspaper of general circulation in Cambridge at least 7 days prior thereto.

RATSY KEMP

171 AUBURN #1

✓ CAMB., MA 02139
(617) 868-6619

Daralyn Khan

491-4063

Elliot Gibbons

502 Green St.

Camb., MA 02139
(617) 492-2128

Linda Chappell

✓ 60 Brattle St

876-0926

Bruce Travis

✓ 60 Brattle St.

354-7417

DRAFT-May 29, 1990

In amendment to an ordinance formerly entitled: "The General Ordinances of the City of Cambridge," as revised in 1972, and now designated as "The Code of the City of Cambridge."

Chapter 12.16 of the Code (Street and Sidewalk Use Regulations) is hereby amended by adding thereto the following new section 12.16.160 (Street performers):

12.16.160

Street performers

→ General supervision over these activities in purview of the Arts Council.

A. Definitions

1. "Perform" includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading and reciting.

2. "Performer" means a person who has obtained a permit pursuant to this section.

3. "Public areas" means public sidewalks, parks, playgrounds and all public ways in Cambridge.

B. Prohibition

No person may perform in a public area without a permit issued pursuant to subsection C of this section.

C. Permit

1. A permit shall be issued by the ~~Cambridge License Commission~~ Cambridge Arts Council to each applicant therefor in exchange for a completed application and a fee of \$10. ~~\$25.00~~ ?

2. A completed application for a permit, and the permit itself, shall contain the applicant's name, residence address and telephone number, and shall be signed by the applicant.

3. A permit shall be valid from the date on which it is issued through the end of that year.

4. A permit shall be non-transferable, and shall contain the permit number of the applicant and the year in which the permit is valid. Each member of a group of performers who play together shall be required to obtain an individual permit.

5. Upon issuing a permit, the ~~License Commission~~ Arts Council shall also give the performer a copy of this section.

D. Display of permit

A performer shall carry the permit on his or her person while performing, and shall show it to any Cambridge Police Officer or ~~Parking Control Officer~~ or staff person of the Cambridge Arts Council on request.

E. Permitted performances

1. Performances may take place in the following locations:
In public areas, except within 100 feet of a school, library,
or church while in session, a hospital at any time, and except

public areas excluded by the City Council, the Commissioner of Public Works, or the Chief of Police pursuant to subsection F of this section;

On private property, with the written permission of the owner or other person in control of such property;

In public areas where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.

2. Performances may take place at the following times:

Monday through Thursday, between 9:00 a.m. and ~~10:00~~ 11:00 p.m.

Friday, between 9:00 a.m. and ~~11:00~~ 12:00 a.m.

Saturday, between 9:00 a.m. and ~~11:00~~ 12:00 a.m.

Sunday, between 10:00 a.m. and ~~10:00~~ 11:00 p.m.

3. No performer or group of performers may generate noise exceeding a mean sound level of 80 decibels measured at a distance of 50 feet from the performer or group of performers. A performer or group of performers may use sound amplification as long as this sound level is not exceeded. Upon a complaint by a resident the designated staff of the Cambridge Arts Council shall, with the permission of the resident, measure the sound level from inside the residential dwelling. If the sound level exceeds a mean sound level of 60 decibels in the daytime or a mean sound level of 50 decibels in the nighttime, as defined in the City's Noise Ordinance, the performer(s) causing the excessive sound level shall move to a distance from the residence sufficient to reduce the

sound level within these limitations.

4. A performer may not create an undue interference with the passage of the public through a public area. If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. The police officer shall not cause the performer to leave the location unless efforts to move the crowd fail to adequately protect the public safety or order. A police officer shall not ask the performer to leave the location unless all other means of restoring the public safety or order have been exhausted. the location.

5. No performer or group of performers may perform less than 50 feet from another performer or group of performers.

6. A performer may request contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12" x 18" in size. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat. Performers may offer for sale representations of their own work, including but not limited to photos, records, cassettes, videotapes or compact discs. No display of such representations of the performers own work shall exceed more than twenty-five percent of the width of the sidewalk from the property line of the premises in front of which the display is installed. In public areas other than sidewalks, no such display shall exceed twenty-five square feet.

F. Exclusion of public areas

(1) A specific public area may be excluded from performances in accordance with constitutional standards by decision of the City Council after a public hearing notice of which shall be advertised once in a local newspaper no less than 14 days prior to said hearing. In addition a written notice shall be sent to the Street Artists Guild no less than 10 days prior to said hearing; or

(2) By decision of the Chief of Police in the case of an emergency: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

(3) By decision of the Commissioner of Public Works in the case of an emergency regarding a park or playground: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

G. Penalties.

1. Noncriminal disposition

Whoever violates any provision of this section may be penalized by a noncriminal disposition as provided in G.L. c. 40, s. 21D. For purposes of this section, the following officials shall be enforcing persons: Police Officers and Parking Control Officers ~~Cambridge Arts Council staff~~. The penalty for each violation will be \$25.

2. Suspension of permit

The ~~License Commission~~ ~~Cambridge Arts Council~~ may suspend a permit for no more than 60 days if a performer is found to have knowingly provided false information in the application. Before

suspending a permit, the ~~License Commission~~ **Arts Council** must hold a public hearing, after 10 days written notice to the performer setting forth the facts constituting the basis for the proposed suspension.

H. Exclusivity

The provisions of this section take precedence over any other City regulations or ordinance applicable to Street Performances. To the extent other City regulations or ordinances are applicable and are inconsistent with this section, this section shall govern. Sound levels generated by Street Performances shall be governed by this section and not by the Cambridge City Noise Ordinance.

I. Severability

The provisions of this section are severable, and if any part of this section should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the section and the remainder of the section shall stay in full force and effect.



CITY OF CAMBRIDGE
INTEROFFICE CORRESPONDENCE

To Richard C. Rossi, Deputy City Manager

Date March 7, 1985

From Joseph E. Connarton, ^{JKL}Deputy City Clerk

Reference

Subject Procedure for issuance of permits Re: Street performers and merchandise displays

As you requested, I am forwarding my thoughts regarding proposed changes in the review and issuance procedure relative to the above.

Street Performers.

It seems clear, from the Council order by Frank Duehay, that some new communication should be initiated with the business community and the performers in terms of each group's needs, wants and desires vs. what is really practical and able to be properly monitored.

My suggestion would be for you or George Teso to convene a meeting to sound these groups out. Once this is done, possibly we could all get together again and tie it all into a new process.

I would also suggest that not all public, recreational and/or so-called sitting parks be designated due to the fact that the demand is obviously greater than the supply. Furthermore, I would suggest that the fee be increased to at least \$5.00 to be consistent with other permits and fees.

Also, I think some thought should be given to placing the authority for these permits either to the License Commission or the Police Department.

Although, from the documents George distributed at the meeting on March 5, 1985 it's clear he has done a good job preparing an application and permit, it seems that the real issue is more entertainment and enforcement oriented rather than traffic oriented.

Finally, I think the business community needs to be educated in terms of the need from time to time, by the Police Department, to enforce the regulations for reasons of public safety.

Display of Merchandise.

As you mentioned at the meeting, this is one of our biggest problems, particularly during July and August. However, based on comments by Frank Duehay, as well as other Councillors, I think the process you outlined at the meeting will solve a lot of problems.

In terms of the actual process as I mentioned, we could basically adopt a sign-off sheet designed for the appropriate departments, similar to that which is currently used for curb-cuts. This could be transmitted from us, to said departments once the actual application is made to the City Clerk's Office.

At the time the application is received, we could hand out a copy of the written procedure outlining the new procedure, review by the City Manager's Office and ultimate approval or denial by Council.

As far as summer requests are concerned, it would expedite things if the Council took a vote around mid-June authorizing the City Manager to approve the issuance of permits subject to each application going through the department head review process.



CITY OF CAMBRIDGE
INTEROFFICE CORRESPONDENCE

To Richard C. Rossi, Deputy City Manager

Date April 8, 1985

From Joseph E. Connarton, ^{JEC} Deputy City Clerk

Reference

Subject Street Musician Policy

Pursuant to your memo of 3/25/85, I am forwarding the following comments:-

Section 1(c):

Do we really want to issue permits for all public areas versus selected areas which, hopefully, will be somewhat controlled.

Section 3: Permits:

I think it's a good idea that the issuance should be done from a department other than Traffic, as I said in my earlier memo. However, knowing how some Councillors feel about the Arts Council's "artistic slant", are they the right ones to do the issuing? Will there be any screening of the applicants?

Section 5: Permitted Performances: Subsection (b):

Do the words "Unless otherwise allowed by the Cambridge Arts Council" make it more or less restrictive for performers to obtain permits?

Also, in light of the pending ordinance on parks and the time factor for the use of the parks, unless we change "public areas" there could be some conflict.

Section 5: Subsection (d):

Maybe we should allow a police officer to use his/her discretion in terms of requesting that a performer leave, if for example a crowd does not leave or a public passage continues to be blocked.

Section 7: Exclusion of Public Areas: Subsection (b)

I think we ought to change this because it seems to me the Council probably doesn't want to be in a position of arbitrating which areas are or are not available to performers.

I hope these comments are helpful.

JEC/mh

DRAFT

Regulation of Street Performances

Sec. 1 Definitions

The following terms are defined for the purpose of this regulation as follows:

(a) "Perform" includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing and reciting.

(b) "Performer" means an individual who owns a permit issued pursuant to the provisions of this Regulation.

(c) "Public Areas" includes sidewalks, parks, playgrounds, and all other public ways located in the City of Cambridge.

Sec. 2 Prohibition

(a) No person may perform in a public area without having obtained a permit issued under Section 3 of this Regulation.

(b) Any person who performs in a public area without a permit issued under Section 3 of this Regulation shall be fined not more than \$25. The proceeds of any such fine shall be directed to the Cambridge Arts Council and used in its administration of this Regulation. Any person paying such a fine in excess of \$5 may obtain a permit under Section 3 of this Regulation without paying a fee therefor if application for such permit is made within 30 days of such payment.

Sec. 3 Permit

(a) A permit shall be issued by the Cambridge Arts Council to each applicant therefor in exchange for a completed application and a fee of \$5, subject to the provisions of Section 8 of this Regulation.

(b) A completed application for a permit shall contain the applicant's name, address, and telephone number and shall be signed by the applicant.

(c) A permit shall be valid from the date on which it is issued through December 31 of the year in which it is issued; provided, however, that a permit issued in 1984 shall be valid through December 31, 1985. -86

(d) A permit shall contain the name and permit number of the applicant plus the year in which the permit is valid and any special allowance made by the Cambridge Arts Council pertaining to the permit.

(e) A permit shall be non-transferable.

(f) Upon issuing a permit, the Cambridge Arts Council shall also issue the performer a printed copy of this Regulation.

Sec. 4 Display of Permit

A performer shall *displayed on person (left or right shoulder)* (carry) a permit on his or her person while performing and shall show it to any police officer of the City of Cambridge upon request.

Sec. 5 Permitted Performances

(a) Performances may take place in the following

locations:

in public areas, except those excluded by the City Council or the Chief of Police pursuant to Section 7 of this Regulation;

on private property, if the performer has obtained the written permission of the owner of such property or other person with authority to grant such permission with respect to such property; and

in a public area where an authorized fair or public festival is being conducted, if the performer has obtained the written permission of the sponsor of such fair or festival.

(b) Performances may take place between 10:00 a.m. and 11:00 p.m. unless otherwise allowed by the Cambridge Arts Council.

(c) A performer may not use electric or electronic amplification except as otherwise allowed by the Cambridge Arts Council.

(d) A performer may not block the passage of the public through a public area except as permitted by the sponsor of an event under paragraph (a) of this Section or otherwise allowed by the Director of Traffic and Parking. ^(PWB) If a sufficient crowd gathers to see or hear a performer such that the passage of the public through a public area is blocked, a police officer may

*Temp. Regulation
this - labor day @ which
time written comments
shall be received
"Plot Program"*

*10-10 P.M.
Sun-Thurs.
10-11 P.M.
FRI-SAT*

disperse the portion of the crowd that is blocking the passage of the public, but said police officer shall not cause the performer to leave the location.

(e) No performer or group of performers shall perform at a distance of less than 50 feet from another performer or group of performers that already is performing.

Sec. 6 Legal Conduct

(a) A performer may accept contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12" by 18" in size. Contributions may be received in any receptacle.

(b) A performer who performs and accepts contributions under the provisions of this Regulation shall not be committing disorderly conduct by virtue of those acts.

(c) A performer who performs under the provisions of this Regulation shall be presumed not to constitute a disturbance of the peace or quiet, unless so determined by a Police Officer *motable in the spirit of entertainment*

Sec. 7 Exclusion of Public Areas

(a) Upon the written recommendation of the Chief of Police or the Director of Traffic and Parking, ^{or PWD} the City Council or any committee thereof to which responsibility is delegated *they will refer to the License Commission* may conduct a public hearing to determine whether a designated public area shall be excluded from further performances. *C/L to be not free*

(b) No public area shall be excluded from performances except:

Traffic Islands
Median Strips
-4-
Roadways

Chief
Tess
Kennedy
Council

by majority decision of City Council or its designated committee pursuant to paragraph (a) hereof; or

by decision of the Chief of Police in the case of an emergency; provided that no public area may be excluded from performances by the Chief of Police under this subparagraph for more than 7 days.

(c) No exclusion of public areas, except as decided by the Chief of Police in an emergency, shall be effective until seven days after written notice of said exclusion has been mailed by the Cambridge Arts Council to each performer.

(d) Upon issuing a permit, the Cambridge Arts Council shall also issue to the performer a current and complete list of all public areas in the City of Cambridge that have been excluded from performances.

Sec. 8 Revocation of Permit

(a) The Cambridge Arts Council may suspend a permit for not more than 30 days if any information contained in the application therefor is found to be false.

(b) The Cambridge Arts Council may suspend a permit for not more than 60 days or revoke a permit if a performer violates any of the provisions of this Regulation.

(c) After revocation of a permit, the former performer may not obtain a new permit until such date as the Cambridge Arts Council may determine, provided that such date shall not be more than one year after the date of revocation.

*Public areas
decided to be
excluded by
Chief of Police - ASAP
and 7 days
written notice*

(d) No permit may be suspended or revoked unless the Cambridge Arts Council holds a public hearing concerning that suspension or revocation, written notice of which has been given to the performer not less than 7 days prior to said public hearing. Such notice shall set forth the facts constituting the basis for the proposed suspension or revocation.



CITY OF CAMBRIDGE

INTEROFFICE CORRESPONDENCE

George Teso, Director, Traffic
Chief Paolillo, Police Dept.
Everett Kennedy, Comm., PWD
Jill Herold, Asst CM for HSP
Kathy Spiegelman, Asst CM for CD

Chris Connaire, Arts Dir.
Susan Spurlock, Asst CS
✓ Joseph Connarton, Dep. CC

To

From Richard C. Rossi *RCR*
Deputy City Manager

Subject Street Musician Policy

Date March 25, 1985

Reference

The attached is a draft regulation for a new policy relative to street musicians. Please read and return your comments by Friday, April 5, 1985.

RCR/b

Regulation of Street Performances

Sec. 1 Definitions

- a) "Perform" — includes acting, singing, playing musical instruments, juggling, dancing and reading.
- b) "Public Areas" — (1) public ways, traffic islands and sidewalks located in the City of Cambridge and (2) such public parks and playgrounds or parts thereof located in the City of Cambridge as may from time to time be designated by the Commissioner of Public Works.

Sec. 2 Prohibitions

No person or group of persons may perform in a public area or for an audience which is present in a public area without a permit issued as provided in Section 3.

Sec. 3 Permit

- a) A permit shall be issued jointly by the Commissioner of Public Works, Director of Traffic & Parking and the Chief of Police (the issuers) of the City of Cambridge.
- b) A permit shall include the name and residence address of the holder.
- c) A permit shall expire on Dec. 31 of the year in which it was issued.
- d) The fee to obtain a permit shall be \$2.00.
- e) The Department of Traffic & Parking (the DTP) shall be the issuers' agent to receive applications for and to issue permits hereunder, but the DTP shall have no power acting alone to deny, suspend, or revoke a permit.
- f) Each application for a permit shall contain the applicant's name, residence address, telephone number and, if applicable, the number of persons to perform in such group, and shall be signed by the applicant.
- g) Upon receipt of a completed, signed application the DTP shall give the applicant a copy of these regulations, and after the applicant has read them, shall issue the permit to the applicant unless the applicant holds a permit which was revoked under Sec. 7 and the period of suspension or revocation has not expired.

Sec. 4 Display of Permit

A permit holder shall carry the permit on his or her person while performing, and shall show it to any police officer of the City of Cambridge upon request.

Sec. 5 Permitted Performances

A holder of a permit hereunder and the persons in the holder's group named in permit may perform in a public area, subject to the following conditions:

- a) Performances may take place
 - 1) In such public areas as may from time to time be designated by the issuers.
 - 2) On private property, with the written permission of the owner or other person in control of such property.
 - 3) In a public area where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.

- (b) Performances under Subsections (a) (1) and (a) (2) may take place between 1:00 p.m. and 10:00 p.m. unless otherwise allowed by the Director of Traffic & Parking.
- (c) A performer may not use electric or electronic amplification.
- (d) A permit holder may request contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12" x 18" in size. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat.
- (e) A permit may not block passage over a public way or sidewalk except as permitted by the sponsor of an event under Subsection (a) (3) or otherwise allowed by the Director of Traffic & Parking.

Sec. 6 Designations of Public Areas

Designations of areas under Sec. 5 (a) (1) shall be in writing and a copy of the most recent designations shall be given to each applicant for a permit. Any change in the areas designated may be made only after written notice to each permit holder, except that performances may be prohibited without notice in a public area during any emergency.

Sec. 7 Peace and Quiet

A performance in accordance with Sec. 5 shall be presumed not to constitute a disturbance of the peace or quiet.

Sec. 8 Revocation of Permit

The issuers may suspend a permit for not more than 60 days or revoke it if:

- (a) Any information contained in the application is found to be false.
 - (b) The holder violates any of these regulations.
- After revocation of a permit, the former holder may not obtain a new permit until such date as the issuers may determine, which shall not be more than 1 year from the date of revocation. No permit may be suspended or revoked unless the issuers hold a public hearing on the suspension or revocation, written notice of which has to be given to the permit holder not less than 7 days prior thereto. Such notice shall set forth the facts constituting the basis for the proposed suspension or revocation.

Sec. 9 Regulations

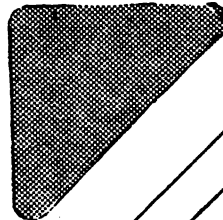
These regulations are issued jointly by the issuers and may be amended by them after a public hearing, notice of which has been given in writing to the persons then holding permits and published in a newspaper of general circulation in Cambridge at least 7 days prior thereto.

TEMPLE ST.

PROSPECT ST.

MASSACHUSETTS AVENUE

CENTRAL SQUARE



NO.	DATE	DESCRIPTION	DRAWN	CHKD	REC'M	APPVD	DATE
REVISIONS ABOVE							

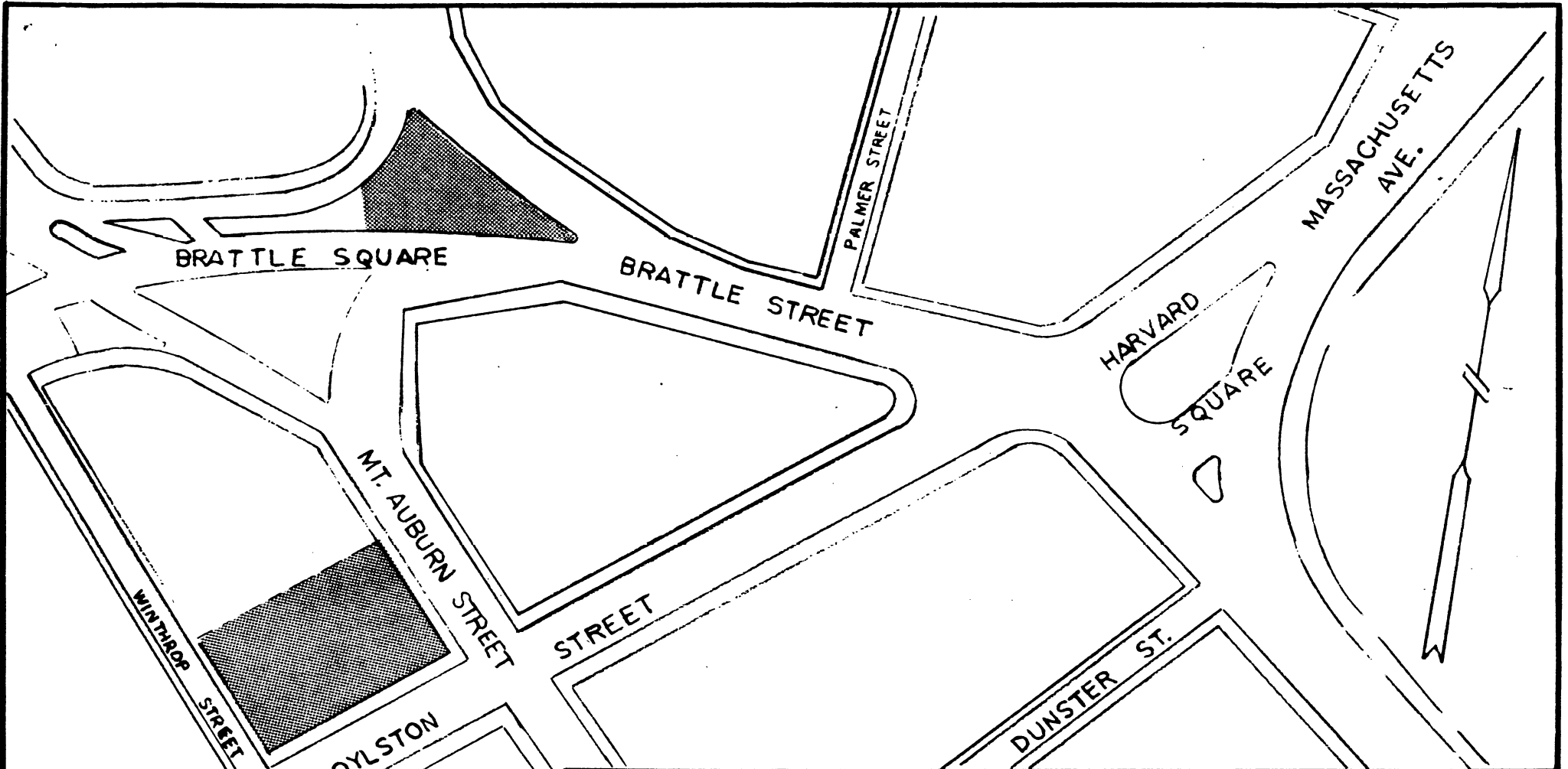
DESIGNATED AREAS FOR STREET PERFORMANCES

	INITIAL	DATE
DRAWN	RIT	7/1/77
TRACED		
CHECKED		7/1/77
REC'M APP.		
APPROVED	[Signature]	7/1/77

DEPARTMENT OF
TRAFFIC AND PARKING
CITY OF CAMBRIDGE

DRAWING NO. _____
SHEET NO. _____ OF _____

BRUNING 40-135 15033



NO.	DATE	DESCRIPTION	DRAWN	CHKD	REC'M	APPVD	DATE
REVISIONS ABOVE							

DESIGNATED AREAS FOR STREET PERFORMANCES

	INITIAL	DATE
DRAWN	<u>ME</u>	<u>12/1/77</u>
TRACED	_____	_____
CHECKED	<u>[Signature]</u>	_____
REC'M APP.	_____	_____
APPROVED	_____	_____

**DEPARTMENT OF
TRAFFIC AND PARKING
CITY OF CAMBRIDGE**

DRAWING NO.
SP-A-1306
SHEET NO. 2 OF 3

CAMBRIDGE
COMMON

MASS. AVE.

GARDEN
ST.

APPIAN
WAY

NO.	DATE	DESCRIPTION	DRAWN	CHKD	REC'M	APPVD	DATE
REVISIONS ABOVE							

DESIGNATED AREAS FOR STREET PERFORMANCES

	INITIAL	DATE
DRAWN	P.M.	7/14/77
TRACED		
CHECKED		
REC'M APP.		
APPROVED		

DEPARTMENT OF
TRAFFIC AND PARKING
CITY OF CAMBRIDGE

DRAWING NO.
SP-A-
SHEET NO. OF

3/15/85

SGreen Museum

Process:

Trabbie gets application

Locations

Grattle Sq. Island

Winstrop PB

Central Sq. Island

Cor. of Cambridge Common

Over 100 permits issued - 1984

Time

Permission

PROPOSED LIST OF LOCATIONS WHERE STREET PERFORMANCE
IS NOT PERMITTED

Within 500' of nursing homes, hospitals and other health facilities.

Within 500' of churches while a service is in progress.

Median strips

Traffic Islands (With the exception of the Brattle Square island)

Library precincts, excepts by permission of the Librarian.

Recreation Department playing areas, except by permission of the Recreation section of Human Service Programs

Children's playgrounds

School grounds, except by permission of the Headmaster and the Superintendent of Schools

Harvard Square kiosk area--except in the space designed for street performance.

6-25-85

DRAFT REGULATION OF STREET PERFORMERS

Sec. 1 Definitions

The following terms are defined for the purpose of this regulation as follows:

(a) "Perform" includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing and reciting.

(b) "Performer" means an individual/group leader who owns a permit issued pursuant to the provisions of this Regulation.

(c) "Public Areas includes sidewalks, parks, playgrounds, and all other public ways located in the City of Cambridge.

Sec. 2 Prohibition

(a) No person/group may perform in a public area without having obtained a permit issued under Section 3 of this Regulation.

(b) Any person/group who performs in a public area without a permit issued under Section 3 of this Regulation shall be fined not more than \$25. The proceeds of any such fine shall be directed to the General Fund and appropriated to the budget of the Arts Council. Any person paying such fine in excess of \$10 may obtain a permit under Section 3 of this Regulation without paying a fee therefor if application for such permit is made within 30 days of such payment.

Sec. 3 Permit

(a) A permit shall be issued by the Cambridge Arts Council to each applicant therefor in exchange for a completed application and a fee of \$10, subject to the provisions of Section 8 of this Regulation.

(b) A completed application for a permit shall contain the applicant's name, address, and telephone number and shall be signed by the applicant.

(c) A permit shall be valid from the date on which it is issued through December 31 of the year in which it is issued; provided, however, that a permit issued in 1985 shall be valid through December 31, 1986.

(d) A permit shall contain the name and permit number of the applicant plus the year in which the permit is valid and any special allowance made by the Cambridge Arts Council pertaining to the permit.

(e) A permit shall be non-transferable.

(f) Upon issuing a permit, the Cambridge Arts Council shall also issue the performer a printed copy of this Regulation.

Sec. 4 Display of Permit

A performer shall display a permit on left or right shoulder while performing and shall show it to any police officer of the City of Cambridge upon request.

Sec. 5 Permitted Performances

(a) Performances may take place in the following

locations:

in public areas, except those excluded by the City Council, Chief of Police, the Traffic Director or Public Works Commissioner, pursuant to Section 7 of this Regulation;

on private property, if the performer has obtained the written permission of the owner of such property or other person with authority to grant such permission with respect to such property; and

in a public area where an authorized fair or public festival is being conducted, if the performer has obtained the written permission of the sponsor of such fair or festival.

(b) Performances may take place between 10:00 a.m. and 10:00 p.m. Sunday - Thursday, 10:00 a.m. and 11:00 p.m. Friday and Saturday unless otherwise allowed by the Cambridge Arts Council.

(c) A performer may not use electric or electronic amplification except as otherwise allowed by the Cambridge Arts Council, pursuant to Noise Ordinance #

(d) A performer may not block the passage of the public through a public area except as permitted by the sponsor of an event under paragraph (a) of this Section or otherwise allowed by the Director of Traffic and Parking or Public Works Commissioner. If a sufficient crowd gathers to see or hear a performer such that the passage of the public through a public area is blocked, a police officer may disperse the portion of the crowd that is blocking the

passage of the public, but said police officer shall not cause the performer to leave the location.

(e) No performer of group of performers shall perform at a distance of less than 50 feet from another performer of group of performers that already is performing.

Sec. 6 Legal Conduct

(a) A performer may accept contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12" by 18" in size. Contributions may be received in any receptacle.

(b) A performer who performs and accepts contributions under the provisions of this Regulation shall not be committing disorderly conduct by virtue of those acts.

(c) A performer who performs under the provisions of this Regulation and who does not violate any existing City ordinances, shall be presumed not to constitute a disturbance of the peace or quiet.

Sec. 7 Exclusion of Public Areas

(a) Upon the written recommendation of the Chief of Police, the Director of Traffic and Parking, or the Public Works Commissioner, the City Council will designate to the License Commission the responsibility to conduct a public

hearing to determine whether a designated public area shall be excluded from further performances. The License Commission shall notify the City Council forthwith of their decision.

(b) No public area shall be excluded from performances except:

by majority decision of City Council or its designated committee pursuant to paragraph (a) hereof; or

by decision of the Chief of Police in the case of an emergency; provided that no public area may be excluded from performances by the Chief of Police under this subparagraph for more than 7 days.

(c) The exclusion of public areas in an emergency, as designated by the Chief of Police, shall be effective immediately. All other exclusions, by recommendation of the Chief of Police, Traffic Director, or Public Works Commissioner, shall also be effective immediately and a written notice of said exclusion will be mailed to all permit-holding street performers stating their right to a hearing before the License Commission within 7 days.

(d) Upon issuing a permit, the Cambridge Arts Council shall also issue to the performer a current and complete list of all public areas in the City of Cambridge that have been excluded from performances.

Sec. 8 Revocation of Permit

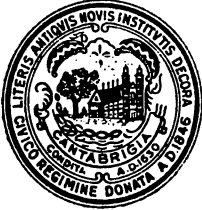
(a) The Cambridge Arts Council may suspend a permit for not more than 30 days if any information contained in

the application therefor is found to be false.

(b) The Cambridge Arts Council may suspend a permit for not more than 60 days or revoke a permit if a performer violates any of the provisions of this Regulation.

(c) After revocation of a permit, the former performer may not obtain a new permit until such date as the Cambridge Arts Council may determine, provided that such date shall not be more than one year after the date of revocation.

(d) No permit may be suspended or revoked unless the Cambridge Arts Council holds a public hearing concerning that suspension or revocation, written notice of which has been given to the performer not less than 7 days prior to said public hearing. Such notice shall set forth the facts constituting the basis for the proposed suspension or revocation.



City of Cambridge

In the Year One Thousand, Nine Hundred **Ninety**

AN ORDINANCE

In amendment to an ordinance formerly entitled: "The General Ordinances of the City of Cambridge," as revised in 1972, and now designated as "The Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

Chapter 12.16 of the Code (Street and Sidewalk Use Regulations) is hereby amended by adding thereto the following new section 12.16.160 (Street performers):

12.16.160 Street performers

A. Definitions

1. "Perform" includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading and reciting.

2. "Performer" means a person who has obtained a permit pursuant to this section.

3. "Public areas" means public sidewalks, parks, playgrounds and all public ways in Cambridge.

B. Prohibition

No person may perform in a public area without a permit issued pursuant to subsection C of this section.

C. Permit

1. A permit shall be issued by the Cambridge License Commission to each applicant therefor in exchange for a completed application and a fee of \$10.

2. A completed application for a permit, and the permit itself, shall contain the applicant's name, residence address and telephone number, and shall be signed by the applicant.

3. A permit shall be valid from the date on which it is issued through the end of that year.

4. A permit shall be non-transferable, and shall contain the permit number of the applicant and the year in which the permit is valid.

5. Upon issuing a permit, the License Commission shall also give the performer a copy of this section.

D. Display of permit

A performer shall carry the permit on his or her person while performing, and shall show it to any Cambridge Police Officer or Parking Control Officer on request.

E. Permitted performances

1. Performances may take place in the following locations:

In public areas, except within 100 feet of a school or church while in session, and except public areas excluded by the City Council or the Chief of Police pursuant to subsection F of this

section;

On private property, with the written permission of the owner or other person in control of such property;

In public areas where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.

2. Performances may take place at the following times:

Monday through Thursday, between 9:00 a.m. and 10:00 p.m.

Friday, between 9:00 a.m. and 11:00 p.m.

Saturday, between 9:00 a.m. and 11:00 p.m.

Sunday, between 10:00 a.m. and 10:00 p.m.

3. No performer or group of performers may generate noise exceeding 80 decibels measured at a distance of 50 feet from the performer or group of performers. A performer or group of performers may use sound amplification as long as this sound level is not exceeded.

4. A performer may not create an undue interference with the passage of the public through a public area. If a performer attracts a crowd sufficient to obstruct the public way, a police officer may disperse the portion of the crowd that is creating the obstruction. The police officer shall not cause the performer to leave the location unless efforts to move the crowd fail to adequately protect the public safety or order. A police officer shall not ask the performer to leave the location unless all other means of restoring the public safety or order have been exhausted.

5. No performer or group of performers may perform less than 50 feet from another performer or group of performers.

6. A performer may request contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12" x 18" in size. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat. Performers may offer for sale representations of their own work, including but not limited to photos, records, cassettes, videotapes or compact discs. No display of such representations of the performers own work shall exceed more than twenty-five percent of the width of the sidewalk from the property line of the premises in front of which the display is installed. In public areas other than sidewalks, no such display shall exceed twenty-five square feet.

F. Exclusion of public areas

(1) A specific public area may be excluded from performances in accordance with constitutional standards by decision of the City Council after a public hearing notice of which shall be advertised once in a local newspaper no less than 14 days prior to said hearing. In addition a written notice shall be sent to the Street Artists Guild no less than 10 days prior to said hearing; or

(2) By decision of the Chief of Police in the case of an emergency: any holder of a license who disputes the need for said emergency exclusion may appeal to the City Council for review.

G. Penalties.

1. Noncriminal disposition

Whoever violates any provision of this section may be penalized by a noncriminal disposition as provided in G.L. c. 40, s. 21D. For purposes of this section, the following officials shall be enforcing persons: Police Officers and Parking Control Officers. The penalty for each violation will be \$25.

2. Suspension of permit

The License Commission may suspend a permit for no more than 60 days if a performer is found to have knowingly provided false information in the application. Before suspending a permit, the License Commission must hold a public hearing, after 10 days written notice to the performer setting forth the facts constituting the basis for the proposed suspension.

H. Exclusivity

The provisions of this section take precedence over any other City regulations or ordinance applicable to Street Performances. To the extent other City regulations or ordinances are applicable and are inconsistent with this section, this section shall govern. Sound levels generated by Street Performances shall be governed by this section and not by the Cambridge City Noise Ordinance.

I. Severability

The provisions of this section are severable, and if any part of this section should be held invalid by a court of competent

jurisdiction, such invalidity shall not affect the remainder of the section and the remainder of the section shall stay in full force and effect.

Regulation of Street Performances

Sec. 1 Definitions

- (a) "Perform" — includes acting, singing, playing musical instruments, juggling, dancing and reading.
- (b) "Public Areas" — (1) public ways, traffic islands and sidewalks located in the City of Cambridge and (2) such public parks and playgrounds or parts thereof located in the City of Cambridge as may from time to time be designated by the Commissioner of Public Works.

Sec. 2 Prohibitions

No person or group of persons may perform in a public area or for an audience which is present in a public area without a permit issued as provided in Section 3.

Sec. 3 Permit

- (a) A permit shall be issued jointly by the Commissioner of Public Works, Director of Traffic and Parking and the Chief of Police (the issuers) of the City of Cambridge.
- (b) A permit shall include the name and residence address of the holder.
- (c) A permit shall expire on Dec. 31 of the year in which it was issued.
- (d) The fee to obtain a permit shall be \$5.00.
- (e) The Department of Traffic and Parking (the DTP) shall be the issuers' agent to receive applications for and to issue permits hereunder, but the DTP shall have no power acting alone to deny, suspend, or revoke a permit.
- (f) Each application for a permit shall contain the applicant's name, residence address, telephone number and, if applicable, the number of persons to perform in such group, and shall be signed by the applicant.
- (g) Upon receipt of a completed, signed application the DTP shall give the applicant a copy of these regulations, and after the applicant has read them, shall issue the permit to the applicant unless the applicant holds a permit which was revoked under Sec. 7 and the period of suspension or revocation has not expired.

Sec. 4 Display of Permit

A permit holder shall carry the permit on his or her person while performing, and shall show it to any police officer of the City of Cambridge upon request.

Sec. 5 Permitted Performances

A holder of a permit hereunder and the persons in the holder's group named in permit may perform in a public area, subject to the following conditions:

- (a) Performances may take place
- (1) In such public areas as may from time to time be designated by the issuers.
- (2) On private property, with the written permission of the owner or other person in control of such property.
- (3) In public area where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.
- (b) Performances under Subsections (a) (1) and (a) (2) may take place between 1:00 p.m. and 10:00 p.m. unless otherwise allowed by the Director of Traffic & Parking.
- (c) A performer may not use electric or electronic amplification. ✓
- (d) A permit holder may request contributions of money or property at a performance, provided that no sign requesting contributions shall exceed 12" x 18" in size. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat.
- (e) A permit may not block passage over a public way or sidewalk except as permitted by the sponsor of an event under Subsection (a) (3) or otherwise allowed by the Director of Traffic & Parking.

Sec. 6 Designations of Public Areas

Designations of areas under Sec. 5 (a) (1) shall be in writing and a copy of the most recent designations shall be given to each applicant for a permit. Any change in the areas designated may be made only after written notice to each permit holder, except that performances may be prohibited without notice in a public area during any emergency.

Sec. 7 Peace and Quiet

A performance in accordance with Sec. 5 shall be presumed not to constitute a disturbance of the peace or quiet.

Sec. 8 Revocation of Permit

The issuers may suspend a permit for not more than 60 days or revoke it if:

(a) Any information contained in the application is found to be false.

(b) The holder violates any of these regulations.

After revocation of a permit, the former holder may not obtain a new permit until such date as the issuers may determine, which shall not be more than 1 year from the date of revocation. No permit may be suspended or revoked unless the issuers hold a public hearing on the suspension or revocation, written notice of which has to be given to the permit holder not less than 7 days prior thereto. Such notice shall set forth the facts constituting the basis for the proposed suspension or revocation.

Sec. 9 Regulations

These regulations are issued jointly by the issuers and may be amended by them after a public hearing, notice of which has been given in writing to the persons then holding permits and published in a newspaper of general circulation in Cambridge at least 7 days prior thereto.



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
TEL. 498-9011

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

March 23, 1990

To the Honorable the City Council:

I am transmitting the attached proposed Street Performers Ordinance for your review and appropriate action.

As you may know, the City currently has a Regulation of Street Performances included as part of the Traffic regulations (copy attached). Several weeks ago Attorney Diana Stallone who represents the Street Artists Guild contacted the Law Department and my office indicating that her clients are prepared to challenge the validity of the existing regulation in the Federal District Court. The Law Department has concluded that the existing regulation is vulnerable to such a legal challenge.

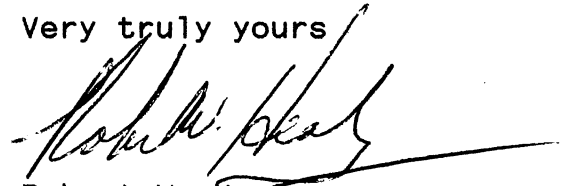
I met with Attorney Stallone and several of her clients. The Guild very reasonably suggested that rather than engage in expensive litigation it might be more constructive to propose an ordinance that does not impose impermissible restrictions. I asked the Law Department to prepare the attached draft ordinance.

I am advised by the Law Department that the courts have recognized street performances as protected expression under the First Amendment to the United States Constitution. Therefore, any regulation of such activity must strike a careful balance between the performer's right to free expression and important governmental interests that are accomplished by the least restrictive means available. The drafting of the attached proposed ordinance was guided by these principles.

I am submitting the attached proposed ordinance in order to begin the appropriate process and debate by the City Council. I believe that the members of the Guild do not agree with all of the provisions of this draft. I also believe that city officials who may be involved in the administration or enforcement of the ordinance may desire different measures. I think that the public debate process of ordination will identify those areas of dispute.

I also believe that any changes contemplated by the City Council should be carefully reviewed by the Law Department given the strict standards of review involved in this area of free expression

Very truly yours



Robert W. Healy

RWH/dad

Agenda # 7

0-35

ORDINANCE on Street Performers.

6/25/90 Passed to be
Ordained
6-2-0-1

In City Council,

March 26, 1990

Referred to the Ordinance
Committee for Review &
Report.

Copy sent to Ordinance
Committee 3/27/90 (dw)