

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



Public Safety Division



December 7, 2005

Commissioner Joseph Fengler
Advisory Neighborhood Commission 6A-02
815 F Street, NE
Washington, DC 20002

Dear Commissioner Fengler:

Pursuant to your request, my Office, in connection with the General Counsels from the Metropolitan Police Department and the Department of Consumer and Regulatory Affairs have been considering what legal options we may have to remedy the situation discussed in your letter dated October 19, 2005. Unfortunately, after much deliberation, we believe that the current state of the law leaves us with no viable legal options.

As you know, the applicable provision of law is the Noise Control Act of 1977. That Act was amended in 2004, pursuant to the "Georgetown Project and Noise Control Amendment Act of 2004". Bill 15-280, D.C. Law 15-214 (Effective Dec 7, 2004). Bill 15-280, as introduced, would have exempted noncommercial speech made in nonresidential areas during the daytime from the definition of a "noise disturbance", except when such speech exceeded 80 decibels "when measured in any nearby occupied building or outside fifty feet (50 ft.) from the source of the sound." However, the enacted version modified that language so that the definition of a noise disturbance now contains the following sentence: "A sound shall not be considered a noise disturbance if made during noncommercial public speaking during the daytime." 20 D.C.M.R. § 2799. Daytime is defined as 7 AM to 9 PM. As a result, the current law leaves us with no legal mechanism by which to stop this activity as long as it constitutes noncommercial speech and is made during the daytime.

I wish that I could give you more encouraging news. I know from your letter and the subsequent email traffic that this has been an ongoing problem and that affected residents are quite frustrated as a result of the level of noise involved. Should the Council decide to change the law, my Office will work with MPD and DCRA to re-examine our options.

If you would like to discuss this with me, please do not hesitate to contact me at (202) 727-3500.

Sincerely,

ROBERT J. SPAGNOLETTI

By:

A handwritten signature in cursive script, appearing to read "David M. Rubenstein".

David M. Rubenstein
Deputy Attorney General