

STAFF REPORT
NOV APPEAL (noise)

Appellant Information:

Name: Anuj Garg
Address: 524 North College Ave, #403
Bloomington, IN
Date Appealed: 3/2/2021

NOV Information:

Date Issued: February 26, 2021
By: Officer Elijah Britton
Where: 524 North College Ave, #403
For: unreasonable noise

Attachments:

1. Notice of Violation
2. Dispatch Records
3. Noise Appeal
4. Proposed Order

Controlling Ordinances and Language:

BMC § 14.09.030(c)(4). It shall be a violation of this chapter to play, use, operate or allow to be played, used, or operated any radio, television, digital media player, loudspeaker, sound amplifier, musical instrument, or any other machine or device for producing or reproducing sound in such a manner that the sound produced persists continuously or intermittently for a period of at least fifteen minutes and can be heard outside the immediate premises from the location of the emitter by a person with normal hearing. *Sound that is clearly audible to a person with normal hearing from any place other than the premises from which the source of the sound is located, when the sound occurs between the hours of nine p.m. and seven a.m., is prima facie evidence of a violation of this section.* (emphasis added)

BMC § 14.09.030(b). Except as otherwise provided in this chapter, it shall be unlawful for any person to cause or make any unreasonable noise or to allow any unreasonable noise to be caused or made in or on any real or personal property occupied or controlled by that person.

BMC § 14.09.070(b). *Any person violating any of the provisions of this chapter, shall, upon a written finding of violation signed by the enforcement officer, be subject to an initial penalty of fifty dollars.* Each day such violation is committed or permitted to continue shall constitute a separate offense. A second violation in any twelve-month period is subject to a fine or penalty of one hundred dollars and subsequent violations within a twelve month period are subject to a fine or penalty of five hundred dollars. (emphasis added)

Discussion:

1. At approximately 3:20 a.m. on 2/26/2021, a noise complaint was issued regarding unreasonable noise at the rental property located at 524 North College Ave, #403 (the “Property”). The Property is located on the fourth floor of the building. Bloomington Police Department (“BPD”) received initial complaints for unreasonable noise at 2:33 a.m. on 2/26/2021. Officer Elijah Britton responded to the noise complaint at approximately 3:07 a.m.
2. Officer Britton took the elevator to the fourth floor of the building and, upon exiting the elevator, was able to hear clearly audible sound coming from the Property—which was 6 doors away from the elevator. Officer Britton was able to hear the sound prior to arriving at the Property and was able to identify that the sound was coming from the Property.
3. BPD made contact with Anuj Garg who is the occupant and tenant of the Property. Anuj Garg was issued ticket #38006 for unreasonable noise, and assessed a fine of \$100.00.
4. Anuj Garg timely appealed the NOV.
5. The facts establish that the noise was unreasonable because it was audible from off premises between 9pm and 7am by a person with ordinary hearing.
6. As the renter, Anuj Garg occupies and has control of this property and is, therefore, a person who can and should be held responsible for this violation.
7. A fine of \$100.00 is appropriate because Anuj Garg received a prior fine for a noise violation on February 11, 2021, under BPD Case Number B21-04230

Staff Recommendation:

1. The appeal should be denied.
2. This is Anuj Garg’s second violation of Title 14.09. A second-time violator is subject to a fine of \$100.00 in accordance with BMC 14.09.070(b).

COUNTY OF MONROE
CITY OF BLOOMINGTON
ORDINANCE VIOLATION

NO. 38006

~~B21-05840~~
C13427

Heather,

The undersigned having probable cause to believe and being duly sworn upon his/her oath says that on:

| | | | | |
|-------------------------------------|-----------|-------------------------|-------------------|---------------------|
| Day of Week Friday | Day 26 | Month Feb | Year 2021 | Time 0320 |
| Last Name GARG | | First ANU | MI | |
| Street Address 524 N College Ave | | | | D.O.B. 2/12/2000 |
| City Bloomington | | State IN | Zip Code 47401 | |
| Sex M | Race | SSN/OLN 9370-40-9732 | | |

DID COMMIT THE FOLLOWING OFFENSE:

14.09.030; Noise

OR

#2

Excessive Loud Noise

\$100

Residence

Vehicle

Contrary to the BMC § 14.09.030

at 524 N College Ave Apt 403 Bloomington, IN.

Officer's Signature *[Signature]*

I.D. No. 1704

City of Bloomington, Indiana

Date 2/26/2021

Signature *[Signature]*

Your signature is not an admission of guilt.

SEE OTHER SIDE FOR ADDITIONAL INFORMATION

Stacy Rees <rees@bloomington.in.gov>

City of Bloomington, Indiana Mail - Fwd: Noise Appeal

<https://mail.google.com/mail/u/0?ik=d93315399f&view=pt&search...>

03/23/21
23:40

BLOOMINGTON POLICE DEPARTMENT
CALL DETAIL REPORT

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Call Number: 210211238

Nature: NOISE
Reported: 22:55:29 02/11/21
Rcvd By: BAILEY JA How Rcvd: T
Occ Btwn: 22:55:29 02/11/21 and 22:56:58 02/11/21
Type: 1
Priority: 2

Address: 524 N COLLEGE AVE; BLDG 10; 4TH FLR
City: BLOOMINGTON

Alarm:

COMPLAINANT/CONTACT

Complainant: , Name#:
Race: Sex: DOB: **/**/**
Address: ,
Home Phone: Work Phone:

Contact: ANON
Address:
Phone:

RADIO LOG

| Dispatcher | Time/Date | Unit | Code | Zone | Agnc | Description |
|------------|-------------------|------|------|------|------|---|
| BRITTON E | 23:22:28 02/11/21 | 1707 | ER | LB1 | BPD | (MDC) Enroute to a call incid#=B21-04230 call=2411 |
| BRITTON E | 23:24:59 02/11/21 | 1707 | AR | LB1 | BPD | (MDC) Arrived on scene incid#=B21-04230 call=2411 |
| KELLEY P | 23:25:16 02/11/21 | 1609 | DISP | LB1 | BPD | incid#=B21-04230 DISPATCHED TO A CALL call=2411 |
| KELLEY P | 23:25:23 02/11/21 | 1609 | ER | LB1 | BPD | call=2411 |
| DUNN C | 23:29:08 02/11/21 | 1609 | AR | LB1 | BPD | (MDC) Arrived on scene incid#=B21-04230 call=2411 |
| BRITTON E | 23:34:32 02/11/21 | 1707 | NMIN | LB2 | BPD | MDC: name=ANUJ, GREG dob=02/12/2000 sex=M |
| BRITTON E | 23:34:33 02/11/21 | 1707 | DLIN | LB2 | BPD | MDC: name=ANUJ, GREG dob=02/12/2000 sex=M |
| BRITTON E | 23:36:03 02/11/21 | 1707 | NMIN | LB2 | BPD | MDC: name=GREG, ANUJ dob=02/12/2000 |
| BRITTON E | 23:36:04 02/11/21 | 1707 | DLIN | LB2 | BPD | MDC: name=GREG, ANUJ dob=02/12/2000 |
| DUNN C | 23:49:10 02/11/21 | 1609 | CE | LB1 | BPD | (MDC) Completed call incid#=B21-04230 call=2411 |
| BRITTON E | 23:50:41 02/11/21 | 1707 | NMIN | LB2 | BPD | MDC: name=ANUJ, GARG dob=02/12/2000 sex=M |
| BRITTON E | 23:50:42 02/11/21 | 1707 | DLIN | LB2 | BPD | MDC: name=ANUJ, GARG dob=02/12/2000 sex=M |
| BRITTON E | 23:51:21 02/11/21 | 1707 | NMIN | LB2 | BPD | MDC: name=ANUJ, GARG dob=02/11/2000 sex=M |
| BRITTON E | 23:51:22 02/11/21 | 1707 | DLIN | LB2 | BPD | MDC: name=ANUJ, GARG dob=02/11/2000 sex=M |

03/23/21
23:40

BLOOMINGTON POLICE DEPARTMENT
CALL DETAIL REPORT

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| | | | | | | | |
|-----------|----------|----------|------|------|-----|-----|--|
| BRITTON E | 23:51:52 | 02/11/21 | 1707 | NMIN | LB2 | BPD | MDC: dl=9370400732 state=IN |
| BRITTON E | 23:51:53 | 02/11/21 | 1707 | DLIN | LB2 | BPD | MDC: dl=9370400732 state=IN |
| BRITTON E | 23:53:44 | 02/11/21 | 1707 | NMIN | LB2 | BPD | MDC: name=GARG, ANUJ dob=02/12/2000 sex=M |
| BRITTON E | 23:53:45 | 02/11/21 | 1707 | DLIN | LB2 | BPD | MDC: name=GARG, ANUJ dob=02/12/2000 sex=M |
| BRITTON E | 23:56:04 | 02/11/21 | 1707 | CE | LB1 | BPD | (MDC) Completed call incid#=B21-04230 call=2411 |

COMMENTS

22:56:22 02/11/2021 - BAILEY JA
EDITED BUZZ APARTMENT 503 TO GET IT IN.... LOUD MUSIC POSS APT 402,
23:56:04 02/11/2021 - BRITTON E
cite

UNIT HISTORY

Unit Time/Date Code

1609 23:25:16 02/11/21 DISP
1609 23:25:23 02/11/21 ER
1609 23:29:08 02/11/21 AR
1609 23:49:10 02/11/21 CE
1707 23:22:28 02/11/21 ER
1707 23:24:59 02/11/21 AR
1707 23:34:32 02/11/21 NMIN
1707 23:34:33 02/11/21 DLIN
1707 23:36:03 02/11/21 NMIN
1707 23:36:04 02/11/21 DLIN
1707 23:50:41 02/11/21 NMIN
1707 23:50:42 02/11/21 DLIN
1707 23:51:21 02/11/21 NMIN
1707 23:51:22 02/11/21 DLIN
1707 23:51:52 02/11/21 NMIN
1707 23:51:53 02/11/21 DLIN
1707 23:53:44 02/11/21 NMIN
1707 23:53:45 02/11/21 DLIN
1707 23:56:04 02/11/21 CE

RESPONDING OFFICERS

Unit Officer

1609 DUNN C
1707 BRITTON E
1707 KINCAID S

INVOLVEMENTS

Type Record# Date Description Relationship

LW B21-04230 02/11/21 NOISE B21-04230 524 N COLLEG Initiating Call

03/09/21
13:00

BLOOMINGTON POLICE DEPARTMENT
CALL DETAIL REPORT

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Call Number: 210226027

Nature: NOISE
Reported: 02:33:05 02/26/21
Rcvd By: BABBS H How Rcvd: T
Occ Btwn: 02:33:05 02/26/21 and 02:33:42 02/26/21
Type: 1
Priority: 2

Address: 524 N COLLEGE AVE; APT 403
City: BLOOMINGTON

Alarm:

COMPLAINANT/CONTACT

Complainant: , Name#:
Race: Sex: DOB: **/**/**
Address: ,
Home Phone: Work Phone:

Contact:
Address:
Phone:

RADIO LOG

| Dispatcher | Time/Date | Unit | Code | Zone | Agnc | Description |
|------------|-------------------|------|------|------|------|--|
| BRITTON E | 03:07:20 02/26/21 | 1707 | ER | LB1 | BPD | (MDC) Enroute to a call incid#=B21-05840 call=271 |
| CHARLIER J | 03:09:08 02/26/21 | 1706 | ENRT | LB1 | BPD | (MDC) Assisting unit 1707 incid#=B21-05840 call=271 |
| BRITTON E | 03:11:00 02/26/21 | 1707 | AR | LB1 | BPD | (MDC) Arrived on scene incid#=B21-05840 call=271 |
| CHARLIER J | 03:13:41 02/26/21 | 1706 | AR | LB1 | BPD | (MDC) Arrived on scene incid#=B21-05840 call=271 |
| CHARLIER J | 03:25:11 02/26/21 | 1706 | CE | LB1 | BPD | (MDC) Completed call incid#=B21-05840 call=271 |
| BRITTON E | 03:26:02 02/26/21 | 1707 | NMIN | LB5 | BPD | MDC: name=GARG, ANUJ dob=02/12/2000 sex=M |
| BRITTON E | 03:26:03 02/26/21 | 1707 | DLIN | LB5 | BPD | MDC: name=GARG, ANUJ dob=02/12/2000 sex=M |
| BRITTON E | 03:26:50 02/26/21 | 1707 | CITE | LB1 | BPD | (MDC) Completed call incid#=B21-05840 call=271 |

COMMENTS

02:33:37 02/26/2021 - BABBS H
LOUD MUSIC. CP WILL LET OFFICERS IN.
DIAL 303 AT THE KEY PAD FOR ACCESS
02:58:21 02/26/2021 - HE T
CP HAS CALLED BACK MULTIPLE TIMES REGARDING THIS NOISE COMPLAINT...CALLS ABOUT
EVERY 10 MINUTES...
03:04:02 02/26/2021 - HE T
CP IS NOW CALLING ON 911 REGARDING THIS NOISE COMPLAINT

03/09/21
13:00

BLOOMINGTON POLICE DEPARTMENT
CALL DETAIL REPORT

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03:20:54 02/26/2021 - BAILEY JA - From: BRITTON E
status - sig 9
03:26:50 02/26/2021 - BRITTON E
Cited for noise. advised of DC

UNIT HISTORY

| Unit | Time/Date | Code |
|------|-------------------|------|
| 1706 | 03:09:08 02/26/21 | ENRT |
| 1706 | 03:13:41 02/26/21 | AR |
| 1706 | 03:25:11 02/26/21 | CE |
| 1707 | 03:07:20 02/26/21 | ER |
| 1707 | 03:11:00 02/26/21 | AR |
| 1707 | 03:26:02 02/26/21 | NMIN |
| 1707 | 03:26:03 02/26/21 | DLIN |
| 1707 | 03:26:50 02/26/21 | CITE |

RESPONDING OFFICERS

| Unit | Officer |
|------|------------|
| 1706 | CHARLIER J |
| 1706 | DUNN C |
| 1707 | BRITTON E |
| 1707 | HUNTER JA |

INVOLVEMENTS

| Type | Record# | Date | Description | Relationship |
|------|-----------|----------|------------------------------|-----------------|
| LW | B21-05840 | 02/26/21 | NOISE B21-05840 524 N COLLEG | Initiating Call |



Appeal of Noise Citation to the Board of Public Works

City of Bloomington
Department of Public Works
401 North Morton Street, Suite 120
Phone (812)349-3410
Email: Public.Works@Bloomington.IN.gov

Please complete this form in its entirety. Use black or blue ink only and Print legibly. A copy of the Noise citation you were issued **MUST** be attached to this form. You are encouraged to attach all documents that you believe support your appeal. **All of these documents must be submitted within seven (7) days** after the Noise citation was issued. The Board of Public Works will primarily consider the written materials submitted, including: this appeal form, documents you provide, a statement from the police officer including any complaints made, and staff recommendations. In addition, on the date given below, you will have the opportunity to speak to the Board for two minutes. You will be notified of the Board's decision by first class mail. If your appeal is denied, you may file an appeal with the Monroe County Circuit within seven (7) days from the date of the Board's decision.

Name: Anuj Garg Phone Number +18126067997

Citation Number: 38006 Date on Noise Citation: 02/26/2021

(Located in the top right hand corner of the citation)

Local Address:
524 N College Ave, apt 403
Bloomington, Indiana
47404

Permanent Address:
524 N College Ave, apt 403
Bloomington, Indiana
47404

Today's Date: 03/02/2021

Reason for Appeal: Denial of the responsibility for a Noise Citation

On 02/25/2021, I had a small gathering with 4 friends. We were just watching TV and listening to music when Bloomington Police showed up and handed me a citation. At this point, I agree it was around 3 am but I hadn't receive any prior complain from neither the Police Officials nor my neighbors. When my friends were about to head home, I see bloomington Police Officials telling me that I'd get a citation for a noise violation. I believe it's unfair to receive a citation without prior warning/ complaint for a gathering so small.

Thank You,

(You may continue on another page if necessary)

On this day, I submitted my completed appeal of Noise citation and received the date of 02/26/2021
When the Board of Public Works will consider my appeal.

Anuj Garg

Signature

03/02/2021

Date

For use by Public Works:

Date Appeal Received: _____ Received By: _____

Date Appeal Forwarded to Legal Department: _____

City of Bloomington's Board of Public Works **Order on Appeal of Notice of Violation Ticket** **#38006**

This matter is before the Board of Public Works for an Appeal of Notice of Violation #38006 (the "NOV") at 524 North College Ave, #403. (the "Property"). The Board of Public Works received information regarding the NOV at its regular meeting on Tuesday, March 30, 2021.

The Board of Public Works now finds as follows:

1. Anuj Garg ("Appellant") timely appealed the NOV.
2. Appellant rents and resides at the Property.
3. City of Bloomington Police Officer Elijah Britton, at approximately 3:07 a.m. on February 26, 2021, while not physically on the Property, heard music and sound coming from the Property.
4. These facts establish a prima facie violation of BMC 14.09.070(c)(4) in that the sound was clearly audible to a person with normal hearing from any place other than the premises from which the source of the sound is located, when the sound occurs between the hours of 9:00 p.m. and 7:00 a.m.
5. Appellant is a person under BMC 14.09.030(b) who can be held responsible for this violation.
6. The facts support a finding that the Appellant did violate BMC § 14.09 regarding unreasonable noise, and that this is Appellant's second violation of BMC § 14.09 within 12 months.

After reviewing all of the evidence and testimony presented, the Board of Public Works hereby Orders that the Appeal of NOV #38006 is denied.

So Ordered this 30th Day of March, 2021.

Dana Palazzo, President
Board of Public Works
City of Bloomington