

Mayor Joe Fontana
City of London
PO Box 5035
London, ON

Re: Rock the Park 9 – City of London Noise Policy

Dear Mayor Fontana,

I am writing today to seek your assistance in relation to the City of London's Noise By-Law and our "Rock the Park" Classic Music Festival. Together with Mr. Brad Jones of the Jones Entertainment Group (JEG) Bethanys Hope Foundation (BHF) have organized eight "Rock the Park" Festivals in Harris Park dating back to 2004.

This letter refers to the Special Events Organizers Meeting held at the Civic Garden Centre on Wednesday, October 12th, 2011. The Meeting was chaired by Mr. Scott Stafford, *Manager of Parks & Recreation* and Ms. Krista Kearns, *Events Manager*. I have included a copy of Minutes for your reference. From an organizers perspective we are very concerned with the application of "Year 2" of the City of London's Noise Policy as per Section 13.1.b.. Following "Rock the Park 8" in July of this year our Foundation received notice that we violated the Noise By-Law and as a result forfeited our \$500.00 Deposit. Another \$500.00 added to the thousands we have paid to the City of London over the previous seven years for noise infractions under this By-Law. As you will note in the Minutes every Festival in London last year that offered amplified music was in violation of the Noise By-Law and forfeited their \$500.00 security deposit to the City of London. Both Mr. Stafford and Ms. Kearns reiterated several times that they did not receive one complaint about the noise levels related to the five fined Festivals. We were further advised by Mr. Stafford that there were no proposed changes to the Noise Policy/By-Law-PW12 for 2012 and Section 13.1.b. would be enforced as follows:

If there was a noise violation from the previous year (as determined solely by the City), in addition to the requirement in (a) above, the operator will be required to have a City of London Municipal By-Law Enforcement Officer(s) on site during all main stage performances and/or beer garden performances to monitor sound levels to ensure compliance. The operator will be required to pay (in advance) the hourly fee for the attendance of the Municipal By-law Enforcement Officer(s) (minimum 2 officers required after 4:30 p.m.) as set out in the City's applicable fees and charges by-law (note that the posted security of \$500 will be applied to such fees and charges, however the operator is required to pay the City in advance for all fees above \$500). In the event that a Municipal By-Law Enforcement Officer is unavailable to attend, the operator will be required to hire an off-duty police officer to monitor sound levels, at the operator's sole expense.

Our concerns were very much the same as the other organizers represented that evening. We are all facing significant added operational costs to provide the By-Law/Police Officer(s) as outlined above over a three day period from 4:00 pm to 11:00 pm each day of our Festival as well as the loss of more Security Deposits.

President
David McIntyre

Chairperson
Mark Fagan

Vice Chairperson
Ryan Gauss

Treasurer
Jim Palmer

Secretary
Theresa Kiff
Lydia Hayes

Directors
Bev Castle
Kelly Schaus

Executive Director
Lindley McIntyre



Mr. Stafford and his Staff could not offer any explanation in relation to the By-Law- PW12 enforcement details as per the following excerpt:

PART 7- PENALTY

- 7.1 (1) Any person who contravenes any provision of this By-law is guilty of an offence.
(2) A director or officer of a corporation who knowingly concurs in the contravention of this By-law is guilty of an offence.
- 7.2 Any person convicted under this By-law is liable:
(a) upon a first conviction, to a minimum fine of \$175.00 and a maximum fine of \$5,000.00;
(b) upon a subsequent conviction, to a minimum fine of \$500.00 and a maximum fine of \$10,000.00.
- 7.3 Despite section 7.2, where the person convicted is a corporation, the corporation is liable,
(a) upon a first conviction, to a minimum fine of \$175 and a maximum fine of not more than Ten Thousand Dollars (\$10,000.); and
(b) upon any subsequent conviction, to a minimum fine \$1000 and a maximum fine of not more than Twenty Five Thousand Dollars (\$25,000).
- 7.4 If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

Order to Discontinue Activity

5.1 If a municipal law enforcement officer or a London Police Service police officer is satisfied that this by-law has been contravened, the officer may make an order, known as an Order to Discontinue Activity, requiring the person who contravened the by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravention.

We were not provided any detail as to how many readings would be taken during the evening and were the organizers and/or Corporations subject to a ticket or charge for every reading that exceeds the 90 db level. There was no clarification regarding Section 5 (Enforcement) under Orders. Would the By-Law/ Police Officer(s) on duty have the potential of discontinuing the concert at any point if the levels were in excess of the 90 db level? As noted the fine associated to a conviction in the first instance ranges from \$175.00 to \$5,000 while a second conviction could result in a fine of \$10,000. Mr. Stafford was not able to explain how the offences would be calculated..... by the hour, the day, or Event per year? The penalty for a Corporation (Foundation) could potentially reach the \$25,000 level and as per Section 7(4), as a convicted person we could be prohibited from organizing any future Festivals in London!

As you are well aware "Rock the Park" is a very well received Festival with many long term fans in London as well as Southwestern Ontario, Michigan and New York State. "Rock the Park" continues to grow each year, generating considerable revenue not only for our work at Bethanys Hope Leukodystrophy Research Laboratory but for many local merchants in this community! At a time when the local tourism has declined and hotel bookings in downtown London are low we continue to bring approximately 30,000 visitors into the core of this City over 3 to 4 day period! Through our ongoing commitment and partnership with the Mr. Jones (JEG) we provide fantastic talent at a very affordable, clean event that has attracted more than 160,000 music fans of all ages over an eight year period. Our Research is reaching a critical point and is on the verge of some very exciting developments. The families of Leukodystrophy are focused on London....on this Research and the leadership of its citizens

... looking for hope for their children! Our Foundation is not in a position to abandon the Research revenue generated from the "Rock the Park" model. Thanks to the Jones family and our dedicated Volunteers we have invested over \$1,250,000 in London, in local Research employing four scientists under the direction Dr. Rugar of *the* University of Western Ontario. "Rock the Park" is a cornerstone of the ongoing search for the cure for this terrible disease....!

Harris Park is a jewel in the City of London. We take the stewardship of this Park and all the associated rules/regulations very seriously. Including the Noise By-Law! Despite our best efforts over the years to meet the 90db level we have never been able to maintain that level over an entire week-end. The highest level recorded last year was a peak of 102 db on a couple of occasions over the 3 day Festival. The majority of the time we were under the required levels. We work very closely with Ms. Kearns and her Staff every year to comply with every aspect of the Events Policy. Last year we did not have any complaints regarding noise levels during "Rock the Park" and only a couple of complaints over the past several years...from the same citizens living in the Harris Park area. Our Foundation, the Jones Entertainment Group and our 250 committed Volunteers are extremely grateful to the City of London for the use of this facility over the past eight years.

We are seeking your support to secure an "Exemption" from the Noise By-Law (PW-12) – 4.1.5 c. We want to continue to provide a great summer Music Festival for the citizens of London however I will not risk damaging our family reputation and that of Bethanys Hope Foundation by exposing ourselves to prosecution under this municipal legislation. We are seeking your support as soon as possible to allow us to get our planning back on track for "Rock the Park 9" to ensure we keep this Festival in London! If your schedule permits I would welcome the opportunity to meet with you to discuss our concerns in more detail prior to the next Community & Protective Services Committee in January.

Sincerely,

Original Signed by:

D.F. McIntyre,
President

cc: Mr. Brad Jones – Jones Entertainment Group