

To The West Stockbridge Select Board,

We feel the decision made by the West Stockbridge Select Board (the "Board") on Monday December 4th 2023, which restricted the operating hours for the Annual Entertainment License for TurnPark Art Space ("Turnpark"), was arbitrary and unreasonable. It is our view that the decision by the Board was based on one person's objection ("Complainant") and the decision was made without a complete discussion nor a chance for Turnpark to properly prepare a defense. Our concern, as a member of this community, is that the Board has appeased one Complainant while failing to consider all of the material facts and the impact of its decision on the entire Town of West Stockbridge.

In the interest of objectivity, Turnpark would like to provide information with the assistance of the West Stockbridge Police Department who received a 911 call about noise from the Complainant on the night of June 10th. Representatives from the West Stockbridge Police can verify that no sound levels exceeded state or local levels and no citations were issued.

Noise is defined in the Commonwealth of Massachusetts Regulations as, "...sound of sufficient intensity and/or duration as to cause or contribute to a condition of air pollution." In support of Turnpark's position, they can establish that the noise emissions never exceeded sound levels by more than 10 dBA above the "ambient" sound levels to cause a violation of 310 CMR 7.10, Massachusetts Department of Environmental Protection noise regulations.

Turnpark also complied with the more restrictive General Bylaws of the Town of West Stockbridge which prohibits, "Excessive noise from electronic amplification devices, including, but not limited to, vehicular sound systems, stereo equipment, outdoor speakers, or air horns in excess of 55 decibels, as measured at the source's property line...." (Bylaw Chapter 185, section 185-1). It's important to recognize that this bylaw refers to residential zones and is not for a commercial zone in which Turnpark is located.

Despite restricting Turnpark's hours of operation for purportedly loud noise levels, the same bylaw (Bylaw Chapter 185) allows the Select Board to issue permits for one-day events with higher noise emissions; even higher than those actually emitted by Turnpark.

§ 185-3 Permit for one-day events.

Applications for permits for noise levels to exceed this bylaw shall be made to the Select Board. The Select Board shall limit the issuance of permits under this bylaw to a single-day event; no more than four events per year for each parcel of land; for noise levels at the property line not to exceed 70 decibels; and to a restricted use during the hours of 10:00 a.m. through 10:00 p.m.

In comparison, The Foundry, a performing arts venue, also had an event that same night and has sound-check data available for review (which they are required to maintain). Their sound data indicates no breach of their permitting conditions. It's important to point out and acknowledge that the event at issue held at Turnpark's location took place ten times (10X) the distance, than the Foundry's location to the Complainant's property. We would also like to address the fact that Turnpark is closer to the Massachusetts Turnpike and the ambient traffic noise level from the Massachusetts Turnpike is higher than any noise emanating from Turnpark as a result of its performances. It is also important to note, TurnPark's musical events primarily occur in our amphitheater which is at least three hundred feet from the home of any resident and is surrounded by a thick wall of trees and shrubs on any side which help to mitigate sound levels.

Additionally, while we don't want to involve the Zucchini Festival's ("Festival"), permit or have their permitting restrictions altered or reduced, the present ruling for Turnpark is incongruous and inconsistent with the permit for the Festival. The Festival is allowed to operate until 10:00 p.m. and generates significantly higher noise emissions, likely in excess of the 70 decibels mandated by the General Bylaws of the Town of West Stockbridge and the Festival takes place closer to the Complainant's

property than TurnPark's activities. TurnPark is in fact unable to create sustained sound at those levels for the simple fact that it would be too loud for our guests.

Understandably, when considering any permit, the Board must weigh the merits of the applicant's request against the welfare of the public to ensure that such permitted activity will not be detrimental to adjacent uses or to the neighborhood and that the permitted use will not unduly harm the general welfare of the community. However, none of those negative issues are present in Turnpark's case. And, if given the opportunity, Turnpark can establish that it was in compliance with the noise bylaw and will continue to do so.

In the past, TurnPark's license has been a critical fund-raising and financial component for its nonprofit business. Turnpark plans these events annually and months in advance. Turnpark's events draw residents throughout the Berkshire's and beyond. Turnpark's existence assists the local economy and businesses in West Stockbridge -- which ultimately benefits the town and its residents. The noise emanating from Turnpark's modest festivals until 10:00 p.m., are well-below the permitted threshold and clearly not a deleterious threat to the community nor the Complainant.

Instead of adding restrictions and burdening businesses, we feel it is incumbent on the Board to help businesses to thrive. This will encourage and further stimulate the cultural and economic activities that make our community vibrant and an attraction for tourism. There needs to be a symbiotic relationship that exists between the businesses and residents whereby businesses are allowed to function and attract patrons to stimulate the local economy. Ultimately, this serves to benefit the town which transcends and culturally enriches all of its residents. While TurnPark is free to West Stockbridge residents, we would like to remind this Board that TurnPark is a nonprofit organization that relies primarily on ticket sales and donations to operate.

Turnpark hosts a small number of amplified events each year but the festival in question is a professionally amplified event. The majority of our events are amplified using our modest PA system which is unable to generate the level of sound we need to generate during our festival. We do however, need our amplification system for events like film screenings and light installations which require complete darkness in most circumstances.

We have always tried to be a good neighbor and community member. Our commitment is exemplified in many ways, for instance we test sound decibel levels at every event. We have also addressed any parking issues head on and kept an open dialogue with many of our neighbors. We have also consistently been transparent and eager to work with the Board and other town officials as we attempt to bring something special and unique to this community within the General Bylaws of the Town of West Stockbridge.

After much thought and reflection we propose amending TurnPark's entertainment times to 10:00 am to 10:00 pm, Monday through Saturday, with an end time of 10:30 pm for film screenings and light installations and a limit of 4 professionally amplified events per year. We feel these proposed times will enable us to present more programming during the day while aligning with current bylaws in a fair way. We will of course continue our sound mitigation protocols and continue to be the best neighbor possible.

Respectfully,

TurnPark Art Space