

Appeal of residents of the 937 Condominiums against the noise variance granted to Bremik Construction to conduct six day-long concrete pours with early morning set up for the hotel construction project located at 485 NW 9<sup>th</sup> Ave (Previous Agenda 390)

**MOTION**

April 26, 2017

**Motion to adopt the variance with four conditions as stated in the Noise Control Officer memo on April 25, 2017:** Moved by Fish and seconded by Fritz.

Council voted as follows:

**Yeas:** Fritz, Fish, Wheeler

**Absent:** Saltzman and Eudaly

**Disposition:**

Apr 26 2017 Adopt variance with amended conditions.



CITY OF

PORTLAND, OREGON

OFFICE OF NEIGHBORHOOD INVOLVEMENT

Chloe Eudaly, Commissioner  
Dave Austin, Interim, Bureau Director  
Noise Control  
1221 SW 4th Avenue, Room 110  
Portland, Oregon 97204

*Promoting a culture of civic engagement*

## MEMORANDUM

Date: April 25, 2017

To: Mayor Ted Wheeler  
Commissioner Eudaly  
Commissioner Fish  
Commissioner Fritz  
Commissioner Saltzman  
David Mitchell, Appellant  
Mary Sipe, supporter of Appellant

From: Paul van Orden, Noise Control Officer

Subject: Initial Council direction on April 19, 2017 on an appeal of noise variance 3889851-001 for Bremik Construction at 485 NW 9<sup>th</sup> Ave

On April 19<sup>th</sup> 2017 Four members of City Council heard an appeal from Dave Mitchell of the 937 Condos at 937 NW Glisan, regarding a noise variance application from Bremik Construction. This is Noise Variance number 3889851-001.

Commissioner Saltzman was not present for this discussion before Council.

The Council members present offered the following points in consideration of the appeal from Mr. Mitchell.

- 1) The City Council made a preliminary determination that of the six concrete pours allowed in the noise variance, any additional dates will be limited to no early concrete pours on the weekends. This includes both Saturdays and Sundays.
- 2) In moving forward, no early set up times for concrete pour operations will be allowed to begin at 4 AM. All remaining early concrete pours under this noise variance will commence at no earlier than 5 AM for set up of equipment exceeding the noise code, and no pouring of concrete will commence prior to 6 AM.

- 3) The changes that might be finalized in this process by City Council, to this particular noise variance, shall be seen as applying to the unique circumstances for this request. Concrete pours have individual challenges and limits. The changes to this variance request are not meant to set a specific precedence for the review and determination on all the unique cases the Noise Control Officer or the Noise Review Board makes a determination on for the community.
- 4) No specific limitations were placed on the early delivery of materials to the site which is not generally a loud operation and has not been listed as one of the concerns in the variance appeal or in the testimony in support of a change to the variance determination. Changes to the original variance conditions for early materials deliveries shall remain in place in the variance.

Council will weigh in with a final determination on the is appeal on Wednesday April 26, 2017 under Council Agenda Item 423. This memorandum is intended to capture the initial direction of the appeal before Council on its first date on the agenda.



April 10, 2017

David L. Mitchell  
937 NW Glisan Street, #1337  
Portland, Oregon 97209-3266

RE: Appeal of Noise Variance / Permit - Revised  
Bremik Construction – Application #3889851-001

Dear Mr. Mitchell:

Please be advised the City Auditor's Office is in receipt of your appeal of the noise variance granted to Bremik Construction. A hearing has been scheduled before City Council on April 19, 2017 at 3:30 p.m. The hearing will take place in Council Chambers located in City Hall, 1221 SW 4<sup>th</sup> Avenue on the 2<sup>nd</sup> floor.

If you have any questions, please do not hesitate to contact me at 503-823-4022 or [toni.anderson@portlandoregon.gov](mailto:toni.anderson@portlandoregon.gov).

Sincerely,

Toni Anderson  
Council Clerk/Contracts Supervisor  
Email: [toni.anderson@portlandoregon.gov](mailto:toni.anderson@portlandoregon.gov)  
Phone: 503-823-4022



Agenda No.  
**REPORT**  
Title

Appeal of residents of the 937 Condominiums against the noise variance granted to Bremik Construction to conduct six day-long concrete pours with early morning set up for the hotel construction project located at 485 NW 9<sup>th</sup> Avenue (Hearing introduced by Auditor Hull Caballero)

<p><b>INTRODUCED BY</b> Commissioner/Auditor: Mary Hull Caballero <i>Mary Hull Caballero</i></p>	<p>CLERK USE: DATE FILED <u>APR 11 2017</u></p>
<p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance &amp; Administration - Wheeler</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Eudaly</p>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p>
<p><b>BUREAU APPROVAL</b></p> <p>Bureau: Auditor's Office Bureau Head: M. Hull Caballero</p>	<p><b>ACTION TAKEN:</b></p> <p>APR 19 2017 <b>CONTINUED TO</b> APR 26 2017 <b>9:30 A.M.</b></p> <p><b>Apr 26 2017 Adopt variance with amended conditions.</b></p>
<p>Prepared by: T. Anderson Date Prepared: 4/11/2017</p>	<p style="font-size: 2em; color: blue;">Record is closed 4-19-17</p>
<p>Impact Statement</p> <p>Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p><b>City Auditor Office Approval:</b> required for Code Ordinances</p>	
<p><b>City Attorney Approval:</b> required for contract, code, easement, franchise, charter, Comp Plan</p>	
<p>Council Meeting Date 4/19/2017</p>	

<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input checked="" type="checkbox"/></p> <p>Start time: <u>3:30 pm</u></p> <p>Total amount of time needed: <u>1 hr</u> (for presentation, testimony and discussion)</p>
<p><b>CONSENT</b> <input type="checkbox"/></p>
<p><b>REGULAR</b> <input type="checkbox"/></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman	—	
4. Eudaly	—	
Wheeler	✓	