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June 12, 2011

Portland City Council
c/o Lavonne Griffin-Valade
Portland City Auditor
1221 SW 4th Ave., Room 140
Portland, OR 97204-4082

Subject: Appeal of noise variance for Hempstead Music Festival on July 4 in the Rose Garden Amphitheater

Dear Members of the City Council:

The Arlington Heights Neighborhood Association, and I in my individual capacity, appeal the June 8, 2011 decision of the Noise Review Board to grant a noise variance for a 7-hour concert in the Washington Park Rose Garden Amphitheater on July 4, 2011. The event, a reggae concert called the Hempstead World Music Festival, is scheduled to run from 3 p.m. to 9:45 p.m., and will draw 3200 people.

Arlington Heights is adjacent to Washington Park in southwest Portland, and includes about 300 homes. We have standing to file this appeal because I appeared in opposition to the variance at the Noise Review Board's hearing on June 8. We urge the Council to reverse the variance decision, because we believe it does not meet the public benefit test under the noise ordinance.

- I. **On July 4, use of Washington Park's roads, facilities, and parking will far exceed its capacity even without the addition of a large commercial event.**

Washington Park is Portland's most heavily used park. The southern part of the park includes the Zoo, the Children's Museum, the World Forestry Center, the Vietnam Memorial, Hoyt Arboretum, and an archery field. The northern part of the park includes the Amphitheater, the Rose Garden, the Japanese Garden, the Holocaust Memorial, a soccer field, five tennis courts, and four picnic areas. The Rose Garden includes two areas that can be reserved for weddings. It also includes

one of the city's most popular playgrounds: the Elephant House Playground. Parents from all over the city take their kids there. The park has miles of popular hiking trails, as well as the Zoo Railway.

On any summer weekend day, the park overflows with visitors, even when no public events are scheduled. July 4 will certainly be one of the most crowded days of the summer. There are 300 parking spaces in the north part of the park, and all of them are used on weekends. Groups often reserve the picnic areas, and the wedding sites in the Rose Garden are booked up months in advance. Arlington Heights serves as overflow parking for the park, and visitors' cars often line the neighborhood streets. The Zoo already draws far more visitors than its parking lot can accommodate, and it rents an auxiliary lot to provide additional capacity. Arlington Heights is currently working with the Zoo and other Washington Park tenants in an attempt to address the chronic parking and traffic problems that have plagued the park for years.

II. The Amphitheater is appropriately used for free cultural events, such as the Summer Concert Series.

The Amphitheater is used for the free Summer Concert Series, community theater, and other free public cultural events. The neighborhood supports use of the Amphitheater for these well-established purposes. The noise and traffic impacts of these events are clearly outweighed by the public benefit of free entertainment for people of all ages. The free summer concerts usually start at 6 p.m., and are three hours long.

III. The Hempstead Music Festival will be larger, longer, louder, and more heavily attended than the free events that the Amphitheater is normally used for, and will deny many other people access to the Park's facilities.

The Hempstead Festival, by contrast, will be much longer, and will not be free to the public. The event will include 4 bands, and is scheduled to run 6 ½ hours, from 3 p.m. to 9:30 p.m. It will be expensive: tickets cost \$39 to \$100. The reggae music will be much louder than the Portland Symphony or the Opera, and will be audible to a large portion of the neighborhood. According to the head of event permitting at Parks & Rec, there has never been a concert this long at the amphitheater. Because it will begin three hours earlier than is typical for evening concerts at the Amphitheater, it will substantially interfere with daytime users of the park. Unlike the Summer Concert Series, the Hempstead Festival will be

heavily promoted through advertising, and will draw a larger crowd. Alcohol will be sold at the event, which will result in additional noise as loud, intoxicated persons walk through the neighborhood when returning to their cars.

Portland Parks & Recreation has a policy of “blacking out” reservations for other events in the park when an event is scheduled in the Amphitheater. That means 4 picnic areas and 2 wedding sites will not be available for reservations on July 4. So, because of the Hempstead Festival, others will be denied use of the park.

The Amphitheater is not well served by public transit. The nearest MAX station is a mile away, and there is no late-night bus service to the Amphitheater. Consequently, the event will bring an extra 1500 cars to the park. There isn't nearly enough parking in the park, so cars will fill the neighborhood. This will also make it hard for visitors to the Rose Garden, Japanese Garden, and other attractions to find parking. Hempstead's promoter has done little to address the parking issue. He intends to use the Archery Field for parking, but that holds only 150 cars, only about 10 percent of the number likely to come to the event.

Paragraph 18.14.020.D.5 of the Portland City Code states that a variance should turn on whether granting it would provide a “greater benefit to the public” than would result from compliance with the noise limit. We believe the Hempstead Festival will not provide a benefit to the public to offset these negative impacts. It will commercialize a public space that's normally open to the public. While many private individuals will profit from the event, the people of Portland will not. Ticket sales will gross more than \$125,000, plus the profits made through alcohol sales and by vendors, while the fee paid to the city for using the Amphitheater is only about \$6000.

We asked the promoter why he didn't choose another venue with better parking and less impact on residential neighborhoods, such as the amphitheater at the Zoo. He replied that he would have had to pay more to use that venue. So, ultimately, this is about the money. There are many other venues for outdoor concerts in Portland, such as Oaks Park or Kelley Point Park, that would have less impact on residential neighborhoods, but Hempstead chose the one that would have the greatest impact because it would net the most revenue.

IV. Portland Parks & Recreation has failed to set any policy regarding the type, frequency, timing, and duration of events allowed at the Rose Garden Amphitheater

Parks & Rec currently places virtually no limits on use of the Amphitheater, and has largely abdicated its management responsibilities to other city bureaus that don't consider the park management implications of their actions. Event size is determined, not by PP&R, but by the Fire Bureau. That limit is based only on emergency access criteria, and not on parking capacity or an event's effect on neighborhoods or other park users. The noise limits are left up to the Bureau of Development Services and the Noise Review Board.

This stands in sharp contrast to Parks & Rec's policy regarding use of the amphitheater at Mount Tabor Park. There, an event involving amplified sound is allowed after 5 p.m. only with the neighborhood association's assent. The Arlington Heights Neighborhood Association believes that a similar policy should apply to the Rose Garden Amphitheater.

V. Conclusion

In light of the above, the Arlington Heights Neighborhood Association urges the Council to reverse the Noise Review Board's decision to grant the variance, because it would not serve the public interest.

Very truly yours,



Eric W. Nagle, Board Member
Arlington Heights Neighborhood Association