

REPORT TO CITY COUNCIL

DATE: APRIL 10, 2024

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: DENICE THOMAS, COMMUNITY DEVELOPMENT DIRECTOR
TRINECE BANDY, SENIOR CODE COMPLIANCE OFFICER

REQUEST: CONSIDER ADOPTION OF RESOLUTION NO. 24-2060 TO SUSPEND OR REVOKE BUSINESS LICENSE NUMBER 006982 (NEW ERA PERFORMANCE AND TUNING, LLC), PURSUANT TO § 6819 OF THE AGOURA HILLS MUNICIPAL CODE AND MAKE A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

On June 14, 2017, the City of Agoura Hills received complaints about excessive noise emanating from a business named New Era Performance and Tuning, LLC (New Era), a dyno diagnostics company located in Building C at 28236 Dorothy Drive. The business license for New Era classifies the business as a motor vehicle repair company. A dyno test (short for dynamometer) is a method for measuring the force, torque, or power in a vehicle by revving the engine and introducing a small amount of resistance. Cars that are undergoing a dyno test emit a large amount of noise during the duration of a test, which can last for several seconds at a time, intermittently, throughout the day. The noise is loud enough to travel across property lines and create significant disturbances for neighboring property owners.

On June 20, 2018, City officials met with the business manager to discuss the disturbance of the peace complaints received by the City. The manager agreed at the conclusion of the meeting not to commit further disturbances by keeping their drop-down bay door mostly closed while conducting engine tests for vehicles on a dynamometer to trap engine noise. The manager also agreed to buy and install sound insulation materials the following week to install inside of the drop-down bay door. The City did not receive any disturbance of the peace complaints for the next several months, and closed out its code enforcement case on September 17, 2018.

In 2021, the City received further complaints regarding the noise emanating from New Era from multiple neighboring property owners. On April 9, 2021, the City Prosecutor sent a letter to both New Era and the property owner explaining the seriousness of the matter

(Attached as Exhibit A). The letter explained the noise requirements in the Agoura Hills Municipal Code (AHMC) § 9305 and requested that New Era immediately and permanently prevent the occurrence of any more disturbances. The letter also outlined potential consequences if further violations of AHMC § 9305 were to occur after the date of the letter. One of the consequences listed in the letter dated April 9, 2021, is that the City could initiate an administrative action to revoke New Era's business license pursuant to AHMC § 6819, which states in part as follows:

“(a) Every business license granted under this chapter is granted and accepted by all parties with the express understanding that the City Council may revoke the business license if it is in the best interest of the health, welfare, or safety of the public to do so and grounds for such revocation exist as noted in this section.

(b) ...a business license may be ... revoked pursuant to this chapter only upon one (1) or more of the following grounds:

(7) The building, structure, premises, or the equipment used to conduct the business activity fails to comply with all applicable health, zoning, fire, building and safety laws of the state of California or the City of Agoura Hills.”

The noise violations did not cease following the letter dated April 9, 2021. The City received complaints on April 15, 2021, and on April 16, 2021. One complaint received also informed the City that New Era was allegedly driving vehicles at high speeds on Agoura Road and Chesebro Road to test the engines. The City contacted the California Highway Patrol (CHP) concerning the complaints, however, CHP declined to investigate.

On April 19, 2021, the City spoke with the Bureau of Automotive Repair Enforcement Division (the Bureau) to ensure that the business possessed a valid Automotive Repair Dealer Registration, which New Era did not have at the time, as confirmed by the Bureau. On April 21, 2021, in response to an inspection conducted by the Bureau, a citation was issued to New Era by the Bureau for failing to possess a valid Automotive Repair Dealer Registration. At the inspection, the Bureau also informed the property manager that he could not work on vehicles registered with the Department of Motor Vehicles without a registration and that they should cease all work immediately.

Several more complaints were received between May and June of 2021. A second inspection by the Bureau on May 20, 2021, found that New Era was still operating without an Automotive Repair Dealer Registration, and a citation was issued on June 22, 2021, with a \$500 fine.

On June 17, 2021, City officials and the Los Angeles County Fire Department (LACFD) inspected New Era's business location. As a result of the inspection, the LACFD found multiple violations of the Los Angeles County Fire Code at the business. The LACFD

issued an Official Inspection Report and set a follow-up inspection for June 30, 2021. The business manager did not allow City officials to conduct a building inspection. New Era's Automotive Repair Dealer Registration was approved by the Bureau of Automotive Repair on July 19, 2021.

Following the inspection with the LACFD, counsel for the City contacted the California Division of Occupational Safety and Health, who investigated the business and found no violations requiring enforcement from their department because (1) New Era did not own a vehicle, (2) New Era used a sound level meter during the inspection as it tuned the vehicles, and (3) New Era did not have any employees. The letter from the California Division of Occupational Safety and Health was received by the City on January 22, 2022, and is attached as Exhibit B.

After receiving the report from the California Division of Occupational Safety and Health, no further code enforcement actions were taken until the City received two more complaints about the noise in July of 2023. The case was referred to the City Prosecutor, who hired a licensed acoustical engineering firm to conduct noise and sound monitoring from March 8, 2024, through March 11, 2024. The monitoring revealed that New Era's commercial activities repeatedly exceeded 65 dBA during the hours of 7:00 a.m. to 10:00 p.m. in violation of AHMC § 9305, as shown below in Table 1.

Table 1. March 8-11 Measured Noise Levels

	Noise Level (dBA)	
	Minimum	Maximum
Average Ambient Noise Level	56	66
Dyno Testing Noise Level	70	89
City of Agoura Hills Noise Limit	65	

The report from the licensed acoustical engineering firm (Exhibit C) found that the ambient noise level varied between 56 dBA and 66 dBA during the measurement period. The measurement location had a direct view of Highway 101, which dominated the ambient noise level. The dyno testing noise level varied between 70 dBA and 89 dBA, between 4 dBA and 33 dBA higher than the ambient noise level. For reference, a 10 dBA increase is perceived, subjectively, as a doubling of the loudness. An increase of 30 dBA would be perceived subjectively as three doublings of the loudness, or eight times as loud. The dyno testing noise exceeds the allowable 65 dBA noise level by between 5 dBA and 24 dBA during the short periods of dyno operation.

The AHMC requires every business to obtain a business license prior to conducting business in the City (§ 6801). Once issued, the City Council may revoke a license if it is “in the best interest of the health, welfare, or safety of the public”, and if one of the grounds for revocation exists as listed in AHMC § 6819(b). The business license for New Era currently meets the following grounds for revocation:

§ 6819.(b)(6) – The business is being operated in a manner determined to constitute an immediate threat or menace to the health or safety of the public. Failure to correct objectionable conditions constituting a public nuisance within a reasonable time after lawful notice from a governmental entity shall be prima facie proof thereof;

§ 6819.(b)(7) – The building, structure, premises, or the equipment used to conduct the business activity fails to comply with all applicable health, zoning, fire, building and safety laws of the state of California or of the City of Agoura Hills.

Based on the numerous complaints that the City has received, and based on the evidence gathered by a licensed acoustical engineering firm between March 8, 2024, and March 11, 2024, New Era is in violation of the City’s Zoning Code Performance Standards, which are located in AHMC § 9305 and state, in pertinent part:

§ 9305 – Performance standards. The conduct and operation of all uses in the commercial districts shall comply with the following minimum standards:

A. Noise. All operations and businesses shall be conducted to comply with the following standards:

- 1. All commercial activities shall not create any noise that would exceed an exterior noise level of sixty (60) dBA during the hours of 10:00 p.m. to 7:00 a.m. and sixty-five (65) dBA during the hours of 7:00a.m. to 10:00 p.m.*

The report from the licensed acoustical engineering firm proves that the noise levels emanating from New Era’s facility exceed the City’s Zoning Code Performance Standards considerably, by between 5 dBA and 24 dBA. Furthermore, New Era has been granted several opportunities to remedy the problem. The City has told New Era on several occasions that the facility must be updated (and that permits must be obtained) to enclose the dyno testing area to reduce noise emissions to levels that are allowable under the City’s municipal code, and New Era has failed, repeatedly, to do so.

The revocation of a business license is exempt from CEQA pursuant to CEQA Guidelines § 15321, which states in part that a class 21 categorical exemption includes actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other

entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency.

FISCAL ANALYSIS

Revocation of a business license has no possibility of impacting the City's adopted budget for Fiscal Year 2023-24.

RECOMMENDATION

Staff respectfully recommends the City Council conduct a public hearing to consider the adoption of Resolution No. 24-2060, a resolution revoking business license number 006982 (New Era Performance and Tuning, LLC), pursuant to § 6819 of the Agoura Hills Municipal Code and making a Determination of Exemption under the California Environmental Quality Act.

Attachments:

Exhibit A: Letter from City Prosecutor dated April 9, 2021

Exhibit B: Letter from the California Division of Occupational Safety and Health Dated January 22, 2022

Exhibit C: Veneklasen Associates Noise Measurement Report Dated March 19, 2024

Exhibit D: Draft Resolution No. 24-2060

Exhibit A:

Letter from City Prosecutor Dated April 9, 2021

DAPEER ROSENBLIT LITVAK LLP
L A W Y E R S

WILLIAM LITVAK*
STEVEN H. ROSENBLIT
KENNETH B. DAPEER
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11500 W. OLYMPIC BLVD., SUITE 550
LOS ANGELES, CA 90064-1524
TELEPHONE (310) 477-5575
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WRITER'S EMAIL
SROSENBLIT@DRLLAW.COM

April 9, 2021

Alexander Esparza [Manager/Responsible Person]
New Era Performance & Tuning LLC [Business Operator – “New Era”]
6633 Hayvenhurst Avenue
Van Nuys, CA 91406-5731

*[Copy Via Email: alexneweratuning@gmail.com and
alex@neweraperformance.com]*

Re: Disturbance of the Peace Complaints
28236 Dorothy Dr., Building C, Agoura Hills

Dear Mr. Esparza:

This office serves as code enforcement attorneys for the city of Agoura Hills (“City”). We enforce the Agoura Municipal Code (“AHMC”).

On June 20, 2018 City officials and I met with you at City Hall to discuss disturbance of the peace complaints in connection with your operation of New Era. I explained that you could be subject to serious sanctions if the City were to confirm you committed a violation of AHMC Section 9305 (that is part of the Zoning Code). That section states in part as follows:

The conduct and operation of all uses in the commercial districts shall comply with the following minimum standards:

A. *Noise.* All operations and businesses shall be conducted to comply with the following standards

1. All commercial activities **shall not create any noise that would exceed an exterior noise level of sixty (60) dBA during the hours of 10:00 p.m. to 7:00 a.m. and sixty-five (65) dBA during the hours of 7:00 a.m. to 10:00 p.m.**

Alexander Esparza [Manager/Responsible Person]
New Era Performance & Tuning LLC [Business Operator]
Re: Disturbance of the Peace Complaints
28236 Dorothy Dr., Building C, Agoura Hills
April 9, 2021
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You agreed at the conclusion of the conference to not commit further disturbances of the peace by keeping a drop down bay door mostly closed while conducting engine tests for vehicles on a dynamometer to trap engine noise. You also stated that you would buy sound insulation materials the following week to install inside of the drop down bay door. The City did not thereafter receive disturbance of the peace complaints about New Era Performance and it closed its case on September 17, 2018.

The City has received new disturbance of the peace complaints. It appears you are not adhering to the practices that resolved the matter in 2018. Please immediately and permanently prevent the occurrence of any more disturbances.¹ If the City receives further complaints about New Era after April 12, 2021, it will formally investigate this matter. You face the following consequences if the City confirms a violation of AHMC Section 9305 after that date:

1. I could file a misdemeanor² criminal complaint against New Era and you in the Los Angeles County Superior Court. **If convicted, you face fines/assessments exceeding \$3,000.00, as well as probation and jail time.**

2. The City could initiate an administrative action to revoke your business license³ pursuant to AHMC Section 6819, which states in part as follows:

(a) Every business license granted under this chapter is granted and accepted by all parties with the express understanding that the city council may revoke the business license if it is in the best interest of the health, welfare, or safety of the public to do so and grounds for such revocation exist as noted in this section.

¹ That means undertaking all actions that are necessary to comply with AHMC Section 9305 at all times in the future.

² AHMC Section 9844 states in part as follows: "Every person violating any provisions of this article ... is **guilty of a misdemeanor.**"

³ New Era and you would have to terminate business operations in that event.

Alexander Esparza [Manager/Responsible Person]
New Era Performance & Tuning LLC [Business Operator]
Re: Disturbance of the Peace Complaints
28236 Dorothy Dr., Building C, Agoura Hills
April 9, 2021
Page 3

(b) ... a business license may be ... revoked pursuant to this chapter only upon one (1) or more of the following grounds:

(7) The building, structure, premises, or the equipment used to conduct the business activity fails to comply with all applicable health, zoning, fire, building and safety laws of the state of California or of the City of Agoura Hills;

3. I could file a civil suit against New Era and you in the Los Angeles County Superior Court for orders enjoining you from violating the AHMC again. I would also seek a judgment for the City's attorney fees, which would be substantial.

Landlords have a duty under the AHMC to not allow tenants to violate the AHMC.⁴ Accordingly, I am sending a copy of this letter to Trustee Anna M. West for Landlord Wayne R. West and Anna M. West Trust.

Your business license expires April 19, 2021. If you have not already done so, please promptly renew the license.

Thank you in advance for your cooperation.

Sincerely,



Steven H. Rosenblit
Agoura Hills Code Enforcement Attorney/Prosecutor

Cc: Trustee Anna M. West
Wayne R. West and Anna M. West Trust
93 Locust Avenue
Oak Park, CA 91377-1115

City Officials

⁴ AHMC Section 1303 states in part as follows: "Whenever in this Code any act ... is made unlawful, it shall include ... **permitting** ... **suffering** ... such act ... The landlord and Ms. West could be named in litigation that this office initiates if you disregard this letter and they have not exercised their lease and state law rights to address new violations of the AHMC at your premises.

Exhibit B:

**Letter from the California Division of Occupational
Safety and Health Dated January 22, 2022**

DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Occupational Safety and Health
Van Nuys District Office
6150 Van Nuys Blvd, Suite 405
Van Nuys, CA 91401
Tel. # (818) 901-5403 Fax # (818) 901-5578



January 28, 2022

Dapeer Rosenblit Litvak
11500 W. Olympic Blvd., Suite 550
Los Angeles, CA 90064

Dear Dapeer Rosenblit Litvak:

On June 23, 2021, the Division of Occupational Safety and Health received your complaint (Complaint No. 1784022) of the following hazardous condition(s) at New Era Performance & Tuning LLC 28236 Dorothy Drive, Building C in Agoura Hills:

1. Complainant is concerned that the manager and operator are using a dynamometer in connection with an auto repair business. The device is very loud. The City is concerned noise from that device is injurious to employees of New Era.

The Division conducted an inspection (Inspection No. 1545009) of the item(s) referenced in your complaint with the following results:

1. Sound Level Meter (SLM) was used during the time of inspection. New Era Performance & Tuning LLC testing customer vehicle on dynamometer. New Era Performance & Tuning LLC does not own vehicle. No violation condition observed.
2. Sound Level Meter (SLM) was used during the time of inspection with dynamometer. No violation condition observed.
3. New Era Performance & Tuning LLC has no employees. No violation observed.

If you do not agree that the hazards you complained about have been satisfactorily addressed, please contact me within ten (10) days of the date of this letter.

California law protects any person who makes a complaint about a workplace safety or health hazard from being treated differently, discharged or discrimination against in any manner by their employer. If you believe that you have been discriminated against because you made a complaint to the Division of Occupational Safety and Health, you may file a discrimination complaint with the nearest office of the Division of Labor Standards Enforcement (Labor Commissioner). However, you must file your complaint within six (6) months of the discriminatory action.

Thank you for your concern about workplace safety and health.

Sincerely,

A handwritten signature in black ink, appearing to read "Bahman Nahoray".

Bahman Nahoray
District Manager

/RS

enclosure(s): Citation(s) or Notice of No Violations, if applicable
reference: Inspection No. 1545009 - Ltr H

Exhibit C:

Veneklasen Associates Noise Measurement Report

Dated March 19, 2024



March 19, 2024

Dapeer Rosenblit Litvak, LLP
11500 W. Olympic Blvd. Suite 550
Los Angeles, California 90064

Attention: Aria Guilani

Subject: Agoura Hills Noise Measurement; Agoura Hills, California
Acoustical Consulting; Veneklasen Project No. 8550-001

Veneklasen Associates (VA) was contacted by Dapeer Rosenblit Litvak, LLP to conduct an acoustical measurement of noise emanating from dyno testing at New Era Performance and Tuning, LLC. The City of Agoura Hills (City) had received complaints from neighboring sites regarding excessive noise from the dyno testing operations. This report provides the measurement results and a comparison of the dyno testing noise with the applicable Agoura Hills Performance Standards regarding noise from the Municipal Code. A list of acoustical terms and their definitions are presented in Appendix A.

CITY OF AGOURA HILLS PERFORMANCE STANDARDS

Section 9305 of the City of Agoura Hills Municipal Code, *Performance Standards*, states:

"The conduct and operation of all uses in the commercial districts shall comply with the following minimum standards:

- A. Noise. All operations and businesses shall be conducted to comply with the following standards:
 1. All commercial activities shall not create any noise that would exceed an exterior noise level of sixty (60) dBA during the hours of 10:00 p.m. to 7:00 a.m. and sixty-five (65) dBA during the hours of 7:00 a.m. to 10:00 p.m".

In summary, the noise limit for all commercial activities is 65 dBA during daytime hours, 7:00 a.m. to 10:00 p.m., and 60 dBA during nighttime hours, 10:00 p.m. to 7:00 a.m. As the dyno testing occurs only during daytime hours, the applicable noise limit is 65 dBA.

EXISTING MEASURED NOISE LEVELS

The equipment utilized to measure both the ambient noise level and the dyno testing noise level was a Bruel and Kjaer Type 1 2270 sound level meter. The sound level meter was set to record second by second sound levels to ensure the dyno testing noise level during short testing periods was measured. The audio during the measurement was also recorded should verification of the dyno testing noise be necessary.

The acoustical measurements were conducted on March 8, 2024, as the City indicated the dyno testing noise had begun. Veneklasen staff traveled to the site, indicated in Figure 1, but after attending the adjacent site for two hours attempting to measure the dyno testing noise, no dyno testing occurred. During our site observations, a tenant from an adjacent building was noticed outside who indicated she had also attempted to measure noise with a cell phone app. The tenant offered a measurement spot on the building balcony, also indicated on Figure 1. It was determined the most cost effective way to obtain the dyno testing noise measurements was to leave the sound level meter on the balcony over the weekend beginning March 8, 2024, and make an additional site visit on March 11, 2024, to retrieve the sound level meter.



Figure 1. Site Location with Measurement Locations

The noise levels measured Friday March 8, 2024, and Saturday March 9, 2024 are summarized in Table 1. The ambient noise levels were analyzed prior to the dyno testing noise, and the dyno testing noise includes two dyno tests on Friday and nine dyno tests on Saturday. The length of the dyno testing ranged between three seconds and eight seconds. The raw data for this analysis can be seen in Appendix B.

Table 1. Measured Noise Levels

	Noise Level (dBA)	
	Minimum	Maximum
Average Ambient Noise Level	56	66
Dyno Testing Noise Level	70	89
City of Agoura Hills Noise Limit	65	



Veneklasen Associates
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MEASURED NOISE LEVEL ANALYSIS

Table 1 indicates the ambient noise level varied between 56 dBA and 66 dBA during the measurement period. The measurement location had a direct view of Highway 101 which dominated the ambient noise level. The table also indicates the dyno testing noise level varied between 70 dBA and 89 dBA, between 4 dBA and 33 dBA higher than the ambient noise level. For reference, a 10 dBA increase is perceived subjectively as a doubling of the loudness. An increase of 30 dBA would be perceived subjectively as three doublings of the loudness, or eight times as loud.

The dyno testing noise exceeds the allowable 65 dBA noise level by between 5 dBA and 24 dBA during the short periods of dyno operation.

Please do not hesitate to contact us if you have any questions regarding this report.

Respectfully submitted,

Veneklasen Associates, Inc.

Stephen A. Martin, *PhD., PE*

Director of Environmental Noise & Vibration



APPENDIX A. DEFINITIONS OF ACOUSTICAL TERMS

Term	Definition
Sound	Relatively small fluctuations in the air above and below atmospheric pressure. These fluctuations travel through the air as waves and are perceived by the ear and brain as audible sound.
Noise	Characterized simply as unwanted sound.
Decibel (dB)	A unit describing the amplitude of sound in a logarithmic ratio to a reference value.
A-weighted Decibels (dB(A))	A filter applied to sound pressure levels in decibel to simulate the response of the human ear at the threshold of hearing. A-weighting de-emphasizes the low frequency components of a sound similar to the human ear at these levels. This metric has been closely tied to subjective reactions of annoyance to noise, and is used as a sound metric in this and in many other environmental acoustics reports. In this report, all dB(A) levels reported refer to the sound pressure level, referenced to 20 μ Pa
Sound Pressure Level (SPL or L_p)	The amplitude of sound compared to the reference value of 20 μ Pa. Sound Pressure Level is what we perceive as audible sound. Sound Pressure Level decreases as distance from the source to the receiver increases. All sound values discussed in this report refer to Sound Pressure Levels.
Sound Level Percentile (L_n)	Also referred to as a “statistical sound level”, L _n refers to the sound level that is exceeded for nth percent of a given measurement period. For example, L ₅₀ refers to the sound level that is exceeded for 50% of a measurement period, i.e. 30 minutes out of an hour. These metrics can be used to evaluate sound levels that are apparent for a given period of time at a measurement location.
Maximum Sound Level (L_{max})	The maximum instantaneous sound level, regardless of duration. These sound levels fluctuate greatly over short periods of time, and are generally used to evaluate audibility of acoustical events.
Ambient Sound Level	The baseline sound level to which proposed or atypical sound levels are compared to. The “ambient” sound level is measured in the same location and during the same time of day for which sound exposure is to be analyzed for an assessment, without the source of the assessment operational. For the purposes of this study, the “ambient” sound level refers to the existing sound level at a location while an event at Latigo Hillcrest Project is not occurring.



APPENDIX B. MONITORING RESULTS

Date & Time	Period	LAeq	Ambient
3/8/2024 2:54:56 PM	00:00:01	84.79	66
3/8/2024 2:54:57 PM	00:00:01	89.17	
3/8/2024 2:54:58 PM	00:00:01	63.29	
3/8/2024 5:31:32 PM	00:00:01	81.5	62
3/8/2024 5:31:33 PM	00:00:01	85.44	
3/8/2024 5:31:34 PM	00:00:01	87.7	
3/9/2024 8:14:07 AM	00:00:01	70.48	60
3/9/2024 8:14:08 AM	00:00:01	72.9	
3/9/2024 8:14:09 AM	00:00:01	78.17	
3/9/2024 8:14:10 AM	00:00:01	78.72	
3/9/2024 9:50:45 AM	00:00:01	71.95	60
3/9/2024 9:50:46 AM	00:00:01	74.5	
3/9/2024 9:50:47 AM	00:00:01	73.68	
3/9/2024 9:50:48 AM	00:00:01	73.75	
3/9/2024 9:50:49 AM	00:00:01	72.26	
3/9/2024 9:14:47 PM	00:00:01	73.64	59
3/9/2024 9:14:48 PM	00:00:01	73.84	
3/9/2024 9:14:49 PM	00:00:01	75.51	
3/9/2024 9:14:50 PM	00:00:01	77.82	
3/9/2024 9:14:51 PM	00:00:01	80.44	
3/9/2024 9:14:52 PM	00:00:01	83.74	
3/9/2024 9:14:53 PM	00:00:01	77.49	
3/9/2024 9:14:54 PM	00:00:01	70.66	
3/10/2024 8:24:20 AM	00:00:01	74.55	57
3/10/2024 8:24:21 AM	00:00:01	79.34	
3/10/2024 8:24:22 AM	00:00:01	84.01	
3/10/2024 8:24:23 AM	00:00:01	85.04	

Date & Time	Period	LAeq	Ambient
3/10/2024 1:42:38 PM	00:00:01	72.53	63
3/10/2024 1:42:39 PM	00:00:01	74.29	
3/10/2024 1:42:40 PM	00:00:01	73.36	
3/10/2024 1:42:41 PM	00:00:01	68.84	
3/10/2024 2:34:32 PM	00:00:01	70.64	56
3/10/2024 2:34:33 PM	00:00:01	73.13	
3/10/2024 2:34:34 PM	00:00:01	72.63	
3/10/2024 2:34:35 PM	00:00:01	71.08	
3/10/2024 8:01:38 PM	00:00:01	69.6	59
3/10/2024 8:01:39 PM	00:00:01	73.26	
3/10/2024 8:01:40 PM	00:00:01	69.6	
3/11/2024 7:39:42 AM	00:00:01	69.86	59
3/11/2024 7:39:43 AM	00:00:01	74.85	
3/11/2024 7:39:44 AM	00:00:01	75.15	
3/11/2024 7:39:45 AM	00:00:01	74.51	
3/11/2024 8:25:38 AM	00:00:01	67.41	58
3/11/2024 8:25:39 AM	00:00:01	70.87	
3/11/2024 8:25:40 AM	00:00:01	73.37	
3/11/2024 8:25:41 AM	00:00:01	69.88	
3/11/2024 8:25:42 AM	00:00:01	70.11	
	Lmin =	69.6	56
	Lmax =	89.17	66
	Length of time:		3 to 8 sec.

Exhibit D:

Draft Resolution No. 24-2060

RESOLUTION NO. 24-2060

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, REVOKING BUSINESS LICENSE NUMBER 006982 (NEW ERA PERFORMANCE AND TUNING, LLC), PURSUANT TO § 6819 OF THE AGOURA HILLS MUNICIPAL CODE AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, on September 23, 2015, the City of Agoura Hills (“City”) issued a business license to New Era Performance and Tuning, LLC (“New Era”).

WHEREAS, New Era is a dynamometer (“dyno”) diagnostics company located in Building C at 28236 Dorothy Drive in Agoura Hills.

WHEREAS, on June 14, 2017, the City received a disturbance of the peace complaint from a neighboring property owner regarding the noise generated by New Era, specifically from cars undergoing dyno diagnostics testing.

WHEREAS, on June 20, 2018, City officials and counsel for the City met with New Era’s owner, Alexander Esparza, at City Hall to discuss the disturbance of the peace complaints in connection with his operation of New Era, where he was asked to resolve the noise violations before being faced with serious sanctions for violating the City’s noise standards.

WHEREAS, Agoura Hills Municipal Code (“AHMC”) § 9305.A.1 states, in part, that commercial activities shall not create any noise that would exceed an exterior noise level of sixty (60) dBA during the hours of 10:00 p.m. to 7:00 a.m. and sixty-five (65) dBA during the hours of 7:00 a.m. to 10:00 p.m.

WHEREAS, on February 5, 2021, and on March 9, 2021, the City received disturbance of the peace complaints from neighboring property owners regarding the noise generated by New Era.

WHEREAS, on April 9, 2021, counsel for the City sent Mr. Esparza a letter concerning the disturbance of the peace complaints received by the City in regards to his operation of New Era. In the letter dated April 9, 2021, Mr. Esparza was reminded that if the disturbances were to continue, he could be convicted of a misdemeanor and that New Era’s business license could be revoked.

WHEREAS, on April 15, 2021, and April 16, 2021, the City received disturbance of the peace complaints from neighboring property owners, as well as

a complaint that New Era was allegedly driving the vehicles that it had tuned at high speeds on Agoura Road and Chesebro Road to test their engines.

WHEREAS, on April 21, 2021, and May 20, 2021, the Bureau of Automotive Repair Enforcement Division issued citations to New Era for failing to possess a valid Automotive Repair Dealer Registration.

WHEREAS, the City received three (3) more complaints regarding the noise generated by New Era between May and June of 2021.

WHEREAS, on July 19, 2021, New Era's application for an Automotive Repair Dealer Registration was approved.

WHEREAS, the City received two (2) more complaints regarding the noise generated by New Era in July of 2023.

WHEREAS, between March 8, 2024, and March 11, 2024, a licensed acoustical engineering firm ("Veneklasen Associates") conducted acoustical noise measurements from properties neighboring the New Era facility.

WHEREAS, the acoustical noise measurements conducted by Veneklasen Associates found that the dyno testing noise exceeded the allowable 65 dBA noise level by between 5dBA and 24 dBA during the periods of dyno operation.

WHEREAS, § 6819 of the AHMC provides specific grounds for the revocation of business licenses.

WHEREAS, New Era was given adequate notice that the City Council would be considering revocation of their business license at a regularly scheduled public hearing on April 10, 2024. The notice contained the date of the hearing, the time of the hearing, the location of the hearing, the subject of the hearing, and specific factual basis for revocation.

WHEREAS, evidence, both written and oral, was duly presented to and considered by, the City Council of the City of Agoura Hills at the April 10, 2024, public hearing.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Agoura Hills, as follows:

Section 1. The City Council hereby finds and resolves that the recitals set forth above are true and correct.

Section 2. The City Council hereby finds that New Era was given adequate time to remedy the violation, as demonstrated in the code enforcement record starting on June 14, 2017, and has failed to meet the performance standard listed in AHMC § 9305.A.1, constituting a public nuisance. The manner in which New Era is being operated constitutes an immediate threat to the welfare of neighboring businesses. Pursuant to AHMC § 6819.(b)(6), these conditions warrant the revocation of New Era's business license.

Section 3. Based on the acoustical noise measurements report written by Veneklasen Associates, dated March 19, 2024, the City Council hereby finds that the premises and equipment used to conduct New Era's business activity is in violation of AHMC § 9305.A.1 which states, in part, that commercial activities shall not create any noise that would exceed an exterior noise level of sixty (60) dBA during the hours of 10:00 p.m. to 7:00 a.m. and sixty-five (65) dBA during the hours of 7:00 a.m. to 10:00 p.m. Pursuant to AHMC § 6819.(b)(7), these conditions warrant the revocation of New Era's business license. The acoustical noise measurements report dated March 19, 2024, is attached to this resolution as Exhibit A.

Section 4. The City Council hereby determines that the revocation of a business license is exempt from CEQA pursuant to CEQA Guidelines § 15321, which states, in part, that a class 21 categorical exemption includes actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency.

Section 5. Based on the findings and conclusions set forth above, the City Council of the City of Agoura Hills, exercising its independent judgement after considering the entire record, hereby revokes business license number 006982 (New Era Performance and Tuning, LLC), pursuant to § 6819 of the AHMC.

PASSED, APPROVED, AND ADOPTED this 10th day of April, 2024, by the following vote to wit:

AYES: ()
NOES: ()
ABSENT: ()
ABSTAIN: ()

Illece Buckley Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

Candice K. Lee, City Attorney



March 19, 2024

Dapeer Rosenblit Litvak, LLP
11500 W. Olympic Blvd. Suite 550
Los Angeles, California 90064

Attention: Aria Guilani

Subject: Agoura Hills Noise Measurement; Agoura Hills, California
Acoustical Consulting; Veneklasen Project No. 8550-001

Veneklasen Associates (VA) was contacted by Dapeer Rosenblit Litvak, LLP to conduct an acoustical measurement of noise emanating from dyno testing at New Era Performance and Tuning, LLC. The City of Agoura Hills (City) had received complaints from neighboring sites regarding excessive noise from the dyno testing operations. This report provides the measurement results and a comparison of the dyno testing noise with the applicable Agoura Hills Performance Standards regarding noise from the Municipal Code. A list of acoustical terms and their definitions are presented in Appendix A.

CITY OF AGOURA HILLS PERFORMANCE STANDARDS

Section 9305 of the City of Agoura Hills Municipal Code, *Performance Standards*, states:

"The conduct and operation of all uses in the commercial districts shall comply with the following minimum standards:

- A. Noise. All operations and businesses shall be conducted to comply with the following standards:
 - 1. All commercial activities shall not create any noise that would exceed an exterior noise level of sixty (60) dBA during the hours of 10:00 p.m. to 7:00 a.m. and sixty-five (65) dBA during the hours of 7:00 a.m. to 10:00 p.m."

In summary, the noise limit for all commercial activities is 65 dBA during daytime hours, 7:00 a.m. to 10:00 p.m., and 60 dBA during nighttime hours, 10:00 p.m. to 7:00 a.m. As the dyno testing occurs only during daytime hours, the applicable noise limit is 65 dBA.

EXISTING MEASURED NOISE LEVELS

The equipment utilized to measure both the ambient noise level and the dyno testing noise level was a Bruel and Kjaer Type 1 2270 sound level meter. The sound level meter was set to record second by second sound levels to ensure the dyno testing noise level during short testing periods was measured. The audio during the measurement was also recorded should verification of the dyno testing noise be necessary.

The acoustical measurements were conducted on March 8, 2024, as the City indicated the dyno testing noise had begun. Veneklasen staff traveled to the site, indicated in Figure 1, but after attending the adjacent site for two hours attempting to measure the dyno testing noise, no dyno testing occurred. During our site observations, a tenant from an adjacent building was noticed outside who indicated she had also attempted to measure noise with a cell phone app. The tenant offered a measurement spot on the building balcony, also indicated on Figure 1. It was determined the most cost effective way to obtain the dyno testing noise measurements was to leave the sound level meter on the balcony over the weekend beginning March 8, 2024, and make an additional site visit on March 11, 2024, to retrieve the sound level meter.



Figure 1. Site Location with Measurement Locations

The noise levels measured Friday March 8, 2024, and Saturday March 9, 2024 are summarized in Table 1. The ambient noise levels were analyzed prior to the dyno testing noise, and the dyno testing noise includes two dyno tests on Friday and nine dyno tests on Saturday. The length of the dyno testing ranged between three seconds and eight seconds. The raw data for this analysis can be seen in Appendix B.

Table 1. Measured Noise Levels

	Noise Level (dBA)	
	Minimum	Maximum
Average Ambient Noise Level	56	66
Dyno Testing Noise Level	70	89
City of Agoura Hills Noise Limit	65	



MEASURED NOISE LEVEL ANALYSIS

Table 1 indicates the ambient noise level varied between 56 dBA and 66 dBA during the measurement period. The measurement location had a direct view of Highway 101 which dominated the ambient noise level. The table also indicates the dyno testing noise level varied between 70 dBA and 89 dBA, between 4 dBA and 33 dBA higher than the ambient noise level. For reference, a 10 dBA increase is perceived subjectively as a doubling of the loudness. An increase of 30 dBA would be perceived subjectively as three doublings of the loudness, or eight times as loud.

The dyno testing noise exceeds the allowable 65 dBA noise level by between 5 dBA and 24 dBA during the short periods of dyno operation.

Please do not hesitate to contact us if you have any questions regarding this report.

Respectfully submitted,

Veneklasen Associates, Inc.

A handwritten signature in black ink that reads 'Stephen A. Martin'.

Stephen A. Martin, *PhD., PE*

Director of Environmental Noise & Vibration



APPENDIX A. DEFINITIONS OF ACOUSTICAL TERMS

Term	Definition
Sound	Relatively small fluctuations in the air above and below atmospheric pressure. These fluctuations travel through the air as waves and are perceived by the ear and brain as audible sound.
Noise	Characterized simply as unwanted sound.
Decibel (dB)	A unit describing the amplitude of sound in a logarithmic ratio to a reference value.
A-weighted Decibels (dB(A))	A filter applied to sound pressure levels in decibel to simulate the response of the human ear at the threshold of hearing. A-weighting de-emphasizes the low frequency components of a sound similar to the human ear at these levels. This metric has been closely tied to subjective reactions of annoyance to noise, and is used as a sound metric in this and in many other environmental acoustics reports. In this report, all dB(A) levels reported refer to the sound pressure level, referenced to 20 μ Pa
Sound Pressure Level (SPL or L_p)	The amplitude of sound compared to the reference value of 20 μ Pa. Sound Pressure Level is what we perceive as audible sound. Sound Pressure Level decreases as distance from the source to the receiver increases. All sound values discussed in this report refer to Sound Pressure Levels.
Sound Level Percentile (L_n)	Also referred to as a "statistical sound level", L _n refers to the sound level that is exceeded for nth percent of a given measurement period. For example, L ₅₀ refers to the sound level that is exceeded for 50% of a measurement period, i.e. 30 minutes out of an hour. These metrics can be used to evaluate sound levels that are apparent for a given period of time at a measurement location.
Maximum Sound Level (L_{max})	The maximum instantaneous sound level, regardless of duration. These sound levels fluctuate greatly over short periods of time, and are generally used to evaluate audibility of acoustical events.
Ambient Sound Level	The baseline sound level to which proposed or atypical sound levels are compared to. The "ambient" sound level is measured in the same location and during the same time of day for which sound exposure is to be analyzed for an assessment, without the source of the assessment operational. For the purposes of this study, the "ambient" sound level refers to the existing sound level at a location while an event at Latigo Hillcrest Project is not occurring.



Veneklasen Associates
 Consultants in Acoustics | Noise | Vibration | AV | IT | Security

APPENDIX B. MONITORING RESULTS

Date & Time	Period	LAeq	Ambient	Date & Time	Period	LAeq	Ambient
3/8/2024 2:54:56 PM	00:00:01	84.79	66	3/10/2024 1:42:38 PM	00:00:01	72.53	63
3/8/2024 2:54:57 PM	00:00:01	89.17		3/10/2024 1:42:39 PM	00:00:01	74.29	
3/8/2024 2:54:58 PM	00:00:01	63.29		3/10/2024 1:42:40 PM	00:00:01	73.36	
				3/10/2024 1:42:41 PM	00:00:01	68.84	
3/8/2024 5:31:32 PM	00:00:01	81.5	62				
3/8/2024 5:31:33 PM	00:00:01	85.44		3/10/2024 2:34:32 PM	00:00:01	70.64	56
3/8/2024 5:31:34 PM	00:00:01	87.7		3/10/2024 2:34:33 PM	00:00:01	73.13	
				3/10/2024 2:34:34 PM	00:00:01	72.63	
3/9/2024 8:14:07 AM	00:00:01	70.48	60	3/10/2024 2:34:35 PM	00:00:01	71.08	
3/9/2024 8:14:08 AM	00:00:01	72.9					
3/9/2024 8:14:09 AM	00:00:01	78.17		3/10/2024 8:01:38 PM	00:00:01	69.6	59
3/9/2024 8:14:10 AM	00:00:01	78.72		3/10/2024 8:01:39 PM	00:00:01	73.26	
				3/10/2024 8:01:40 PM	00:00:01	69.6	
3/9/2024 9:50:45 AM	00:00:01	71.95	60				
3/9/2024 9:50:46 AM	00:00:01	74.5		3/11/2024 7:39:42 AM	00:00:01	69.86	59
3/9/2024 9:50:47 AM	00:00:01	73.68		3/11/2024 7:39:43 AM	00:00:01	74.85	
3/9/2024 9:50:48 AM	00:00:01	73.75		3/11/2024 7:39:44 AM	00:00:01	75.15	
3/9/2024 9:50:49 AM	00:00:01	72.26		3/11/2024 7:39:45 AM	00:00:01	74.51	
3/9/2024 9:14:47 PM	00:00:01	73.64	59	3/11/2024 8:25:38 AM	00:00:01	67.41	58
3/9/2024 9:14:48 PM	00:00:01	73.84		3/11/2024 8:25:39 AM	00:00:01	70.87	
3/9/2024 9:14:49 PM	00:00:01	75.51		3/11/2024 8:25:40 AM	00:00:01	73.37	
3/9/2024 9:14:50 PM	00:00:01	77.82		3/11/2024 8:25:41 AM	00:00:01	69.88	
3/9/2024 9:14:51 PM	00:00:01	80.44		3/11/2024 8:25:42 AM	00:00:01	70.11	
3/9/2024 9:14:52 PM	00:00:01	83.74					
3/9/2024 9:14:53 PM	00:00:01	77.49					
3/9/2024 9:14:54 PM	00:00:01	70.66			Lmin =	69.6	56
					Lmax =	89.17	66
3/10/2024 8:24:20 AM	00:00:01	74.55	57		Length of time:		3 to 8 sec.
3/10/2024 8:24:21 AM	00:00:01	79.34					
3/10/2024 8:24:22 AM	00:00:01	84.01					
3/10/2024 8:24:23 AM	00:00:01	85.04					