

**Notice of Appeal from Granting of OMV Permit to
Tiniest Bar in Texas
817 W 5th St/78703**

**March 9, 2013
Case Number SO-2013-0035**

Austin City Lofts Neighborhood Association, as an interested party under Austin City Code §9-2-55, hereby appeals the decision of the City of Austin's accountable official in granting an outdoor music venue permit to the Tiniest Bar in Texas. Austin City Code §9-2-56(F) specifies boundaries within which neighborhood associations may not appeal a permit-approval decision. TBT is located **outside** the western boundary; thus, *this appeal is authorized.*

The grounds for this appeal are as follows:

- Granting TBT an OMV permit would seriously disrupt the surrounding neighborhood. Hundreds of people live in buildings that are within 600 feet of the bar:
 - The Monarch
 - (Future residences of) 311 Bowie
 - Austin City Lofts
 - Gables West Austin
 - Spring
 - 404 Rio Grande
- Based on past experience, TBT will not comply with the requirements of the permit. Jason Subt opened the bar in 2006, and all this time he has been subject to the same specifications stated in the permit — 75-decibel limit with cut-off hours of Wednesday 10:30 p.m., Thursday 11 p.m. and Friday-Saturday midnight. Despite these limits, the bar produced live and recorded music long past the cut-off times and far in excess of the decibel limit. Multiple neighborhood complaints were filed **nightly**, and should all be available on police records, logs. TBT's record was so bad that city sound officials denied an OMV permit in March 2010 (case no. SO-2010-0090M.) **There is absolutely no reason to believe TBT would act differently now.**
- TBT still violates the noise ordinance by playing recorded music, but keeps the sound at a level that is not disruptive. Our neighborhood has been livable again since they were denied the permit in 2010. The permit should be denied to keep the neighborhood livable. The quality of life for hundreds of residents is in peril.

I am attaching our objection to the current application as well as TBT's 2010 application.



Ian Inglis
President, Austin City Lofts Neighborhood Association



Objection to Application for Outdoor Music Venue Permit by Tinlest Bar in Texas 2/18/2013

Case Number SO-2013-0035

Contact: Clara Hilling or Don Pitts or David Murray

Clara, Don, or David:

I am the designated representative of the Austin City Lofts Neighborhood Association (ACLNA) for purposes of responding to applications for Outdoor Music Venue (OMV) permit applications in our area. The boundaries of our registered neighborhood association come within 600 feet of the applicant's property, a bar known as Tinlest Bar in Texas. Our neighborhood association is responding to the application as an interested party under Section 9-2-55 of the Austin City Code. We are joined in this effort by the Austin City Lofts Owners Association (ACLOA).

1. Our Neighborhood Association and Owners' Association object to the granting of an Outdoor Music Venue (OMV) permit for the above property Tinlest Bar in Texas.

The Tinlest Bar in Texas (TBT) has long been a nuisance to our neighborhood, disrupting the peace with loud amplified outdoor sound and noise. It has produced this sound both in the form of live bands and a bar sound system, often after designated hours and at sound levels that far exceed the bar's legal limit of 75 decibels and the City's Noise Ordinance limit of 85 decibels.

TBT originally received an OMV permit after agreeing to amend its site plan to limit any outdoor amplified sound to 75 decibels and to cease all amplified sound after the cut-off hours provided by the City Noise Ordinance. TBT proceeded to produce amplified sound, both live and recorded, at excessive decibels and long after the cut-off times. Residents of our associations called police over and over, to little avail. When TBT applied for a renewal of its OMV permit, we objected strenuously to City staff. See the letter set forth below dated March 1, 2010, which details the history of TBT's behavior. Staff denied the renewal application. TBT has continued to produce amplified outdoor sound and noise despite the absence of an OMV permit.

Like the renewal application, this application should be denied. TBT has had the same ownership all along, and there is no reason to believe it will behave any differently than it did when it had the original permit. Our neighborhood will be subjected to the same unlawful and disruptive behavior as under the previous permit.

2. The Austin City Lofts Neighborhood Association, due to its status as an "Interested party," is entitled to be informed of the determination whether or not an outdoor music permit is granted in this case, and to appeal any adverse decision to the City Council.

My personal information as an authorized representative of ACLNA is as follows:

Name: Ian Inglis
Address: 800 W 5th St Apt 805, Austin, TX 78703
Telephone: 512-656-2936

Description of Issues and Concerns: See number 1 above.

Case Number SO-2013-0035 (Tinlest Bar in Texas)

Contact: Clara Hilling or Don Pitts or David Murray

When a determination is made about this application, please inform us. In addition, if a permit is granted we request a copy and the exact terms of the permit issued including the begin and end dates of the permit, the days and hours during which outdoor sound is allowed, the decibel limits allowed by the permit and any other information that is material to the above-expressed concerns of our neighborhood association.

If the outdoor music venue permit is denied, please inform us whether any other type of sound permit was issued to the business such as a 96-hour permit or monthly single application permits. If any such permits were issued, please inform me of the material details of the issued permit or permits.

Thank you for your assistance in this matter of so much importance to downtown residents.

Ian Inglis
Authorized Representative, Austin City Lofts Neighborhood Association

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Letter Opposing Renewal of OMV Permit for Tiniest Bar in Texas - March, 2010

March 1, 2010

Re: Case number: SO-2010-0090M

Dear Ms. Hilling,

I own a condominium at Austin City Lofts, 800 W 5th St. Tiniest Bar in Texas (TBT), the applicant for an outdoor sound permit under the above case number, is located at 817 W 5th St, just west of our building and well within earshot of us.

I strongly object to TBT's application. The owners and management of this bar have been untrustworthy in their dealings with our owner association representatives, dismissive of city permit requirements, and unreasonably disruptive of neighborhood peace and quiet with amplified sound and noise at all hours. Assuming TBT ever obtained a sound permit in the first place, they have forfeited any right to a renewal with their bad faith actions.

Our building opened in March 2004. Sometime later, our owners received notice that TBT was applying for a change of use permit under the zoning laws to allow them to sell alcoholic beverages. Our Association opposed this application, arguing that there already were enough bars in the neighborhood and that the proposed outdoor bar would create a neighborhood nuisance, chiefly through amplified noise and sound. The Planning Commission approved the change of use over our objection.

Our Association appealed the Planning Commission's decision to the City Council. Prior to the Council hearing, we reached an agreement with the owners of TBT to drop our appeal in exchange for an amendment to TBT's site plan stating that TBT would limit any noise emitting from the bar to 75 decibels at their property line, and would comply with the amplified sound cut-off times specified by the City noise ordinance: 10:30 pm Sun-Wed, 11:00 pm Thurs, and midnight Fri-Sat. These restrictions were directly written into the site plan and constitute permanent additions to the plan.

At the same time, the owners of TBT assured us that any music they produced at the bar would be low-level and acoustic in nature, intended for ambiance. They insisted it would not disturb the neighborhood. The reality has been dramatically different.

Soon after opening with a deck attached to the main bar structure at the west end of the property, the owners of TBT began to construct additions at the east end of the property. As a part of this add-on, they built a second outdoor bar and a covered stage at the east end of the property, abutting Shoal Creek. This work was all done without City permits, and all of it was placed in the Shoal Creek flood plain in violation of the flood plain ordinance. Litigation concerning these unlawful additions continues to this day, I believe.

As soon as the stage was completed, TBT began booking performances of bands - for the most part full-sized bands producing amplified sound at decibel levels far in excess of the required 75 db. The bands often have continued playing past the required cut-off times. When these bands crank it up, as they often do, they constitute a neighborhood nuisance every bit as infuriating as some noisy plant or loud heavy equipment.

Owners in our building, including me, have called the police on TBT more times than we can count, usually to no effect. When the police do occasionally force TBT to turn it down or off, we are rewarded with hollering and taunting in front of our building by less-than-sober patrons of TBT who apparently blame us for impinging on their ability to party outdoors deep into the night in downtown Austin.

This neighborhood nuisance must end. Tiniest Bar in Texas does not deserve an outdoor sound permit. They have proven beyond any doubt that they will not stick to their word or obey the law. The City should deny the application for the sound permit. Moreover, the City should require TBT to remove the unlawful stage and bar at the east end of the property to eliminate TBT's incentive to violate the noise ordinance and its own site plan.

Sincerely,

Ian Inglis