



CITY OF EMERYVILLE

INCORPORATED 1896

1333 PARK AVENUE
EMERYVILLE, CALIFORNIA 94608-3517

TEL: (510) 596-4300 FAX: (510) 658-8095

October 28, 2004

Mr. Bernhard Seidl, Manager
Trader Vic's Restaurant
9 Anchor Drive
Emeryville, CA 94608

**Re: Meeting of October 8, 2004 between Trader Vic's Restaurant, Watergate Residents,
and City of Emeryville Representatives Regarding Noise and Other Issues of Concern**

Dear Mr. Seidl:

This is to memorialize the meeting that took place in our offices on the morning of Friday, October 8, 2004 regarding noise and other issues of concern related to Trader Vic's restaurant raised by residents of the adjacent Watergate apartments. In attendance were Council Member Nora Davis, Planning Commissioner and Watergate resident Joe Lutz, Planning and Building Director Charles Bryant, City Attorney Michael Biddle, Police Chief Ken James, Fire Chief Steve Cutright, Chief Building Official Victor Gonzales, Trader Vic's Vice President Sven Koch, yourself and myself.

The main concern raised by Watergate residents is noise from music and patrons that emanates from the banquet room on the east side of the restaurant and the adjacent outdoor deck. You indicated that most of these events are private parties where the patrons bring their own music, and that they are not open to the public. You also indicated that Trader Vic's puts on four events per year that involve live music and are open to the public.

The Police Chief noted that live music events that are open to the public are considered "cabarets" under the Emeryville Municipal Code (EMC), and require a cabaret permit pursuant to Chapter 4 of Title 5 of the EMC. Up to four such events may be held per year (one every three months) under EMC Section 5-4.16, "Permits for Single Cabaret or Public Dance Events", for which a permit may be granted administratively by the Police Chief. Any more events than this requires a Conditional Use Permit from the Planning Commission and a cabaret license from the City Council.

It was also noted that the Noise Ordinance (Chapter 13 of Title 5 of the EMC) prohibits "any noise so as to disturb or cause discomfort to any reasonable person of normal sensitivity ... after 9:00 p.m." This includes "excessive or annoying noise from the premises of any commercial ... establishment, including any outdoor area part of or under the control of the establishment" [e.g. your outdoor deck]; "loud or raucous yelling or shouting, whistling, or singing"; "band or

orchestral concert, rehearsals or practice"; and "electronically or acoustically amplified sound". Trader Vic's is expected to abide by the provisions of the Noise Ordinance.

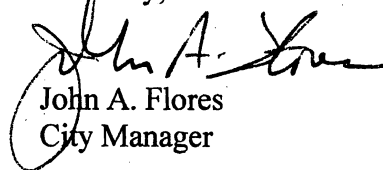
It appears that the enclosure of the outdoor deck, which was originally built as an entrance onto the publicly accessible boardwalk per BCDC conditions, and its use for live music, may be an illegal expansion of the use as entitled by the 1969 use permit for the site. We therefore expect Trader Vic's to cease using the outdoor deck for music, loud drumming, and other live entertainment. To further reduce the noise impacts on the neighbors, acoustical treatment should be investigated to mitigate noise from patrons gathering on the deck. A licensed architect and/or acoustical engineer should be consulted to determine how best to reduce noise levels emanating from both the deck and from inside the restaurant. The Chief Building Official offered the Building Division's services to work with such an individual on a solution to the problem.

Meanwhile, you agreed to post a sign on the deck asking patrons to keep the noise down and respect the peace and quiet of the residential neighbors. You also agreed to tell customers to keep the music volume down, to keep the east facing doors closed to the extent feasible when there is live music indoors, and to monitor the noise level from events at the restaurant and turn it down if it gets too loud. In addition, you indicated that Trader Vic's will work with the neighbors in performing "sound checks" to determine acceptable sound levels for indoor music at the restaurant, will give neighbors advanced notice of upcoming events, and will be responsive and take immediate corrective action if complaints are received. Joe Lutz agreed to serve as liaison for the Watergate residents.

It was also noted that the fire lane along Anchor Drive has now been painted with a red curb and is being enforced by the Police Department. It was suggested that you explore alternative locations for valet parking, such as the Watergate office garage and the marina. You also indicated that you would work cooperatively with your residential neighbors to resolve any other issues that may arise such as noise from deliveries, trash pick-ups, recycling, and so forth.

We appreciate your willingness to work cooperatively with the City and your residential neighbors to resolve these issues so that Trader Vic's can continue to serve as a valuable asset to the Emeryville community.

Sincerely,



John A. Flores
City Manager

cc: Nora Davis, City Council Member
Joe Lutz, Planning Commissioner
Charles S. Bryant, Director of Planning and Building
Michael G. Biddle, City Attorney
Ken James, Police Chief
Steve Cutright, Fire Chief
Victor Gonzales, Chief Building Official
Sven Koch, Trader Vic's Vice President