

RE: COMPLAINTS OF VEHICULAR TRUCK NOISE ON GILLEY AVENUE, MARINE DRIVE
TO RUMBLE STREET

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendation of the Chief Public Health Inspector be adopted.

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TO: MUNICIPAL MANAGER 1985 SEPTEMBER 04
FROM: CHIEF PUBLIC HEALTH INSPECTOR
RE: COMPLAINTS OF VEHICULAR TRUCK NOISE
ON GILLEY AVENUE, MARINE DRIVE TO RUMBLE STREET

RECOMMENDATION:

THAT a copy of this report be forwarded to members of the public who have complained to Municipal Council regarding the subject vehicular truck noise on Gilley Avenue.

R E P O R T

In reference to letters of complaint addressed to the Municipal Council from residents of Gilley Avenue regarding disturbances due to noise emission from trucks using Gilley Avenue between Marine Drive and Rumble Street, we would advise as follows.

In 1972, the Municipal Council adopted the Burnaby Noise or Sound Abatement Bylaw, which contained sections regulating noise emission from motor vehicles.

Since 1979, the Environmental Health Division has been unable to proceed with enforcement of the vehicular sections of the Noise Bylaw due to a decision by the Provincial Crown Prosecutor's office not to accept charges under the Bylaw. The Provincial Crown Prosecutor's office states court decisions in other Canadian jurisdictions relating to similar bylaw charges make successful prosecutions under the Noise Bylaw unlikely. Where a Bylaw relates to a "public welfare" that the defence of "due diligence" is available and that absolute liability is not applicable. Anybody charged with operating a noisy vehicle will take the logical position that they did not know (and could not know) that the vehicle was unusually noisy.

The Provincial Crown Prosecutor's office recommends, as do the R.C.M.P., that complaints of excessively loud motor vehicles are best handled under the Motor Vehicle Act (i.e., faulty mufflers, unsafe conditions, use of Jake brakes, etc.

The Environmental Health Division proceeded with a noise survey of Gilley Avenue and did note the use of Jake brakes by trucks proceeding south from Rumble to Marine Drive. This violation of the Motor Vehicle Act has been referred to the R.C.M.P. for their enforcement.

GVH:la

G.V. Harvie, C.P.H.I.(C)
CHIEF PUBLIC HEALTH INSPECTOR

cc: Director Administrative & Community Services
Medical Health Officer
R.C.M.P.
Director Engineering