

eff. June 19/84

This is Exhibit "B" to
the Affidavit of William
Louis Ostenstad sworn
before me this 2nd day
of May, 1984

LAX KW'ALAAMS BAND OF INDIANS

BY-LAW NO. 1983- 2

Barbara Sherry
Commissioner for taking
Affidavits for British
Columbia

A by-law to regulate or prohibit noise or
objectionable sounds within Reserve.

WHEREAS the Indian Act provides that the Council of
a Band may make by-laws for any or all of the following
purposes, namely:

the observance of law and order (paragraph 81(c));

the prevention of disorderly conduct and nuisances
(paragraph 81(d));

with respect to any matter arising out of or
ancillary to the exercise of the aforementioned
powers (paragraph 81(q));

the imposition on summary conviction of a fine not
exceeding One Hundred Dollars or imprisonment for a
term not exceeding thirty days, or both, for
violation of a by-law made under Section 81
(paragraph 81(r));

NOW THEREFORE the Council of the Lax Kw'alaams Band
of Indians at a duly convened meeting enacts as a by-law
the following:

PART I - SHORT TITLE

1. This by-law may be cited for all purposes as the
Lax Kw'alaams Noise Control By-law.

PART II - INTERPRETATION

GENERALITY OF PROVISIONS

2. No provision or provisions of this by-law shall in
any way limit the generality of any other provision
or provisions of this by-law.

SEVERABILITY

3. If a Court of competent jurisdiction declares any
section or part of a section of this by-law to be

invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in force.

HEADINGS

4. The headings of parts and sections in this by-law have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this by-law or any of its provisions.

DEFINITIONS

5. The following terms, whenever used in this by-law, or in any resolution of Council dealing with this by-law, shall have the meanings respectively ascribed to them in this section unless the context otherwise requires:

"Approved Sound Level Meter" means an instrument which measures levels of sound pressure on the "A" weighted scale in accordance with the specifications for Type 2 general purpose sound level meters set out by the American National Standards Institute, in the publication entitled "American National Standard Specification for Sound Level Meters" dated April 27, 1971.

"Audio Equipment" means any radio, record player, tape recorder, tape player or any other instrument or apparatus for the production of or amplification of sound.

"Band" means the Lax Kw'alaams Band of Indians.

"Construction" includes erection, alteration, repair, re-location, dismantling, demolition, maintenance, painting, moving, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, highway building, concreting, equipment installation and alteration, structural installation of construction components and materials in any form or for any purpose, and any work being done in connection therewith.

"Construction Equipment" means any equipment or device designed and intended for use in Construction, or material handling including without restricting the generality of the foregoing air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, and other material handling equipment.

"Council" means the Council of the Band.

"Day Time" means from 7:00 a.m. on any day to 10:00 p.m. of the same day.

"Emergency Vehicle" means:

- (a) a Motor Vehicle carrying rescue or first aid equipment where there is an urgent emergency;
- (b) a Motor Vehicle driven by a member of the Lax Kw'alaams Volunteer Fire Department in the discharge of his duties;
- (c) a Motor Vehicle driven by a Peace Officer in the discharge of his duties.

"Highway" includes every highway, bridge, driveway, street, lane, square, road, avenue, parkway, thoroughfare, parking area, or other place within Reserve designed or intended for the use of the membership of the Band and/or the general public for the passage of vehicles or the parking of vehicles including, without restricting the generality of the foregoing, every area designated as a highway, bridge, driveway, street, lane, road, avenue, parking area or thoroughfare, on a Canada Lands Survey Records Plan or a Regional Surveyor of British Columbia Plan.

"Motor Vehicle" means any device in, upon or by which a person or thing is or may be transported or drawn upon a Highway, except a device designed to be moved by human power or to be used exclusively upon stationary rails or tracks.

"Night Time" means from 10:00 p.m. on any day to 7:00 a.m. the next day.

"Noise or Sound Level" means the noise or sound level in decibels as measured on the "A" scale, which is to say the "A" weighted network, and slow response of a sound level meter.

"Occupant" means the owner, occupant or licensee of Premises or any Person found on Premises at or around the time when noise or sound issues from the Premises.

"Peace Officer" means any constable or any person having the powers of a constable and without restricting the generality of the foregoing shall include any member of the Royal Canadian Mounted Police including special constables thereof.

"Person" includes any individual, company, partnership, association or society.

"Premises" means the area contained within the apparent boundaries of any lot and any building situated within such boundaries; PROVIDED HOWEVER that where any building contains more than one dwelling unit, each dwelling unit, the common areas of the building, and the land within the apparent boundaries of the lot on which the building is situated, shall be deemed to be separate premises.

"Reserve" includes all reserves of the Band.

PART III - APPLICATION

6. This by-law applies within Reserve.

PART IV - OFFENCES

DISTURBING PEACE

7. (1) No Person shall make or cause, or permit to be made or caused, any noise or sound anywhere within Reserve which disturbs or tends to disturb unreasonably the quiet, peace, rest, enjoyment,

comfort or convenience of any other Person in the neighborhood or vicinity.

- (2) No Person being the Occupant of Premises shall permit, suffer or allow such Premises to be used so that noise or sound which emanates therefrom disturbs or tends to disturb unreasonably the quiet, peace, rest, enjoyment, comfort, or convenience of any other Person in the neighborhood or vicinity.

OBJECTIONABLE SOUNDS

8. No Person being the Occupant of Premises shall permit, suffer or allow:
 - (a) the noise resulting from a gathering of two or more Persons where one or more human voice is raised beyond the level of ordinary conversation; or
 - (b) the sound of Audio Equipment;

to be caused or made on such Premises in such a manner that such noise or sound can easily be heard by any Person who is not on the same Premises from which such noise or sound emanates.

ANIMAL SOUNDS

9. No Person shall loan, keep, or harbour any animal or bird which by its cries unduly disturbs the peace, quiet, rest, or tranquility of the adjacent Premises, surrounding neighborhood, or the public at large.

SOUND LEVELS

10. (1) No Person shall make or cause, or permit to be made or caused, any noise or sound, the Noise or Sound Level of which during the Day Time exceeds a rating of 55 on an Approved Sound Level Meter, or during the Night Time exceeds a rating of 45 on an Approved Sound Level Meter.
- (2) For the purposes of sub-section (1), noise or sound emanating from:
 - (a) a source located other than on Premises shall be measured at a distance of not less than 6.0

metres from the source of such noise or sound; and

- (b) a Premises shall be measured at any point outside the Premises.

MOTOR VEHICLE SOUNDS

11. No Person shall:

- (a) use a horn or other warning device on a Motor Vehicle except for the purpose of giving an audible warning necessary for the safe operation of such Vehicle; or
- (b) operate a Motor Vehicle powered by an internal combustion engine without a fully operating device to muffle the sound caused by the exhaust cycle of the internal combustion engine; or
- (c) operate a Motor Vehicle in such a manner as to cause squeeling of any tire except as is required for emergency braking of such Motor Vehicle.

PART V - EXCEPTIONS

EMERGENCY VEHICLE DRIVER

- 12. Notwithstanding any other provision of this by-law, any driver of an Emergency Vehicle may disregard all of the provisions of this by-law while acting in the course of his lawful duty.

CLEANING AND MAINTENANCE

- 13. Notwithstanding any other provision of this by-law, a Person during the Day Time may use or cause to or permit to be used any apparatus, whether or not powered by an internal combustion engine or electric motor, to clean or maintain any building, street, sewer, water main, electrical duct, or other public utility.

POWER MOWER OR CHAIN SAW

- 14. Notwithstanding any other provision of this by-law, a Person may use or cause or permit to be used a

power lawn mower, chain saw, or other similar equipment except during the Night Time and except between 7:00 a.m. and 1:00 p.m. on Sunday, PROVIDED THAT such power lawn mower, chain saw, or other similar equipment if powered by fuel and not electricity is equipped with a fully operating device to muffle the sound caused by the exhaust cycle of an internal combustion engine.

WORK AND ACTIVITIES DIRECTED BY COUNCIL

15. Notwithstanding any other provision of this by-law, the making of noise during the course of the carrying out of the following work or activities being carried out or done at the direction, or on the authority, of Council shall not constitute a breach of any provision of this by-law:
- (a) Construction of any nature;
 - (b) the operation of Construction Equipment in connection with any of the aforesaid Construction; or
 - (c) the carrying out of any game or public entertainment.

EMERGENCY ALARM

16. Notwithstanding any other provision of this by-law, in the event of any threat of harm to property or Person arising that reasonably requires that members of the Band be alerted or called together, it shall not constitute a breach of this by-law for any Person to sound an alarm, such as a siren, in order to alert or call together members of the Band.

PART VI - PENALTIES

17. Every Person who disobeys or fails to comply with any provision of this by-law is guilty of an offence and is liable to imposition on summary conviction of a fine not exceeding One Hundred Dollars or imprisonment for a term not exceeding thirty days, or both.

APPROVED AND PASSED at a duly convened meeting of
the Council of the Lax Kw'alaams Band of Indians this 13th day
of October , 1983.

James Bryant
CHIEF COUNCILLOR

Albert White
COUNCILLOR

James B. Lawson
COUNCILLOR

Marvin Wesley
COUNCILLOR

Darwin Price
COUNCILLOR

John Alexcee
COUNCILLOR

R.E. Sankey
COUNCILLOR

COUNCILLOR

COUNCILLOR

COUNCILLOR

COUNCILLOR

COUNCILLOR

COUNCILLOR

I, James Bryant , Chief Councillor of the Lax Kw'alaams
Band of Indians, do hereby certify that a true copy of the
foregoing by-law was forwarded to the Minister of Indian
Affairs and Northern Development pursuant to sub-section
82(1) of the Indian Act this 14th day of October , 1983.

W.L. Ostenstad
WITNESS

James Bryant
CHIEF COUNCILLOR