

Thursday, February 9, 1989

City takes The Edge to court

Hearing results in 45-day monitoring of sound levels near club

By Fiona Soltes

STAFF WRITER

If the music's too loud, you're too loud. Or maybe you just live too close.

Sound levels emanating from The Edge nightclub have been a source of complaints for residents of a nearby mobile home park for the past two years. But after a Jan. 31 hearing between Gary Seaback and Mansard House Inc., doing business as The Edge, and College Station, the sound levels were ordered monitored for a 45-day period.

A resident of the Oak Forest Mobile Home Park said things haven't been quiet enough since the hearing. The park is 30 feet from the club.

"Things were better for a while before the hearing," Robert Schrader said, "but they're not really better now. I think the gentleman has a right to have a business there, but I don't think he has the right to disturb our peace."

Complaints resulted in the hearing in W.T. McDonald's 85th District Court, seeking a temporary restraining order and a temporary injunction preventing the use of the site as a club. An agreed temporary restraining order followed the hearing, allowing the club, at 2501 S. Texas Avenue in the Winn-Dixie shopping center, to remain in business provided sound levels monitored outside the club don't rise above 60 decibels, the level of normal conversation.

"Before the injunction, sound levels of 78 to 90 decibels were coming from the club," Marianne Banks, assistant city attorney said. "Levels inside were reported by an expert as being over 100 decibels."

An engineer, hired by club owner Seaback, will check sound levels from a meter located between the park and the club during the designated time period. He also will look for other solutions to the problem, Banks said.

"The engineer has come up with a few suggestions," she said. "It might be some sort of atmospheric disturbance, making a difference on cloudy or clear nights. Also, the problem might lie in the metal roof, where there can be reverberations, or in the vacant building next to it."

Following the 45-day period, a report will be

made before further legal action is taken, she said.

Roland M. Searcy, Seaback's attorney, said the club is not at fault for being close to the park. "That's the fault of the city of College Station," Searcy said. "The area was zoned for commercial use, and the city licensed the club to come in."

The debate between residents and the club started when the club opened in 1987. According to a petition filed before the hearing, more than 100 complaints concerning loud music at the club were made to College Station officials within a 20-month period.

According to evidence presented at the hearing, the Texas Alcoholic Beverage Commission completed civil proceedings on charges of excessive noise coming from the club in 1987 and in 1988. The first time, Seaback admitted the noise was excessive and paid \$450 fee in lieu of a three-day permit suspension. The second time, Seaback's permit was suspended for seven days.

If Seaback violates the current agreement, he will be held in contempt of court and fined \$1,000 per day.

Farm Bureau calls meeting to discuss commissioner's post

AUSTIN (AP) — The Texas Farm Bureau is calling a special meeting next month to discuss urging replacement of the elected agriculture commissioner's post with an appointed board or commissioner, the organization said Wednesday.

"It's to re-evaluate our position," said Vernie Glasson, an official at bureau headquarters in Waco. "Calling the special meeting is one thing ... I'm not sure exactly what our delegates are going to do."

He said the meeting is scheduled for March 20 in Waco.

A spokesman for two-term Democratic Agriculture Commissioner Jim Hightower called the meeting another shot in the bureau leadership's long-running political feud with Hightower.

"This is the same old stuff. They (Farm Bureau leaders) can't beat Hightower at the polls, so they're going to try again through the legislative process," Andy Welch, the commissioner's press secretary, said.

"The people of Texas have said repeatedly that they prefer choosing their public officials," he added.

Leaders of the Farm Bureau, the state's largest farm organization, have been highly critical of Hightower. That criticism has increased in recent weeks, after the European Economic Community banned imports of American beef treated with growth hormones.

Hightower has been pushing the U.S. Department of Agriculture to allow exports of hormone-free Texas beef.

Farm Bureau President S.M. True issued a statement calling that effort wrongheaded.

"Hightower is either perpetrating the biggest fraud in Texas political history, or he has become the comic sidekick for the European Economic Community in

the growth promotant dispute," True said.

The Texas Department of Agriculture is subject to the state's "sunset" review process during this legislative session. The agency is scheduled to go out of existence Sept. 1 unless the Legislature passes and the governor signs a bill authorizing it to continue.

Glasson said changing the agriculture commissioner's job from an elected position has been discussed by Farm Bureau members for several years.

"Our people believe in the right to vote," he said. "But this past year there was a large degree of activity among our county farm bureaus. We had 46 county farm bureaus which submitted resolutions to our state convention to move toward either an appointive commissioner or an appointive commission."

But Welch noted that the Farm Bureau's regular convention in December decided to continue supporting an elected agriculture commissioner's post.

"The hierarchy of the Farm Bureau has been pushing for this for the last four, if not the last six, years at their statewide conventions. They did it again last December and failed. But the hierarchy and True are just going to keep trying until they get their way," Welch said.

"It doesn't matter who the governor is — Republican or Democrat — people don't like the idea of their agriculture commissioner being appointed by cronyism," he said.

Hightower decided to seek reelection and not run for the U.S. Senate in 1990, and the agriculture commissioner also has voiced a desire to expand his organizing of a populist political movement.

Worker's comp reform bill introduced

AUSTIN (AP) — The Texas workers' compensation system would be reformed — including an increase in benefits for injured workers and an overhaul of the system's governing body — under a bill introduced Wednesday with support from House Speaker Gib Lewis.

"If Texas is to keep its economic momentum, significant revisions to our current workers' compensation process are essential," Lewis said. "Without such changes, our economic competitiveness will be impaired and our ability to create jobs for Texans will be endangered."

House Bill 1 — whose primary sponsors are Reps. Richard Smith, R-Bryan, and Rick Perry, D-Haskell — was referred to the House Business and Commerce Committee, which promptly scheduled a Monday hearing.

It comes after a one-and-a-half year study of the workers' compensation system. Premiums for workers' compensation — paid to employees injured on the job — have increased more than 100 percent since 1985, and another 19 percent increase took effect Jan. 1.

"Our current workers' compensation process is broken," Lewis said. "The Legislature must take the necessary steps to repair the system and recapture the spirit that accompanied this law's enactment some seventy years ago. That basic goal was to provide a quick and certain recovery to injured workers without regard to fault."

The bill, Smith said, addresses increasing safety in the workplace; reorganizing and strengthening the Industrial Accident Board, which would be re-named the Texas Workers' Compensation Board; changing the benefit structure; and changing

the adjudication process for disputed cases.

Instead of a workers' compensation case getting a completely new trial at the district court level, the district court action would be treated as an appeal of the agency action.

The maximum weekly benefit for an injured worker would be raised from the current \$238 to the statewide average weekly wage, currently \$416.

"Today, the people that should be most happy in Texas with what we're doing are the rank and file workers of this state," Perry said. "No longer are they going to have to take what I consider to be a pittance in the weekly benefits that they have available to them."

The system would remain a voluntary one.

"They're trying to clean up Boston Harbor, but I wouldn't ask anybody to swim in it until they get through with the job," Smith said. "The system we've got today is such a mess that I just simply in good conscience couldn't ask anybody to force them to participate in this system."

Among other provisions in House Bill 1:

- The prohibition of recovery by an intoxicated worker would be expanded to include drug-related intoxication.

- The governing board would be increased from three to nine members, and a business-labor committee would advise it.

- The new Texas Workers' Compensation Board would include divisions on compliance and practices; medical review and compliance; industrial safety; education and training; and hearings and appeals.

- Death benefits would be limited to "truly dependent" people.

- Individual self-insurance would be allowed under strict guidelines.

Smith said the reform legislation was filed as one bill, rather than separate measures, to facilitate cooperation among doctors, insurance, labor, business and lawyers.

"In order to move this off dead center, break the gridlock, you have to have a package in which all five interest groups have some gain and all five interest groups give up something in order to move to a new system," he said.

Correction

A story in Friday's *Battalion* incorrectly reported that Head Football Coach R.C. Slocum had been backed for not retaining two individuals in the Sports Information Department. Athletic Director John David Crow was the person responsible for the decision. *The Battalion* regrets the error.

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1.53	3,875	9,000	.25	325	600
1.43	5,550	11,500			
1.33	2,475	5,000			
1.18	2,325	4,600			
1.17	2,750	5,200			
1.11	2,350	4,650			
1.03	3,595	8,500			
1.06	1,975	4,000			
1.03	2,195	4,200			
1.03	3,875	9,000			
1.00	2,750	5,200			
1.00	1,650	3,300			
.95	2,395	4,700			
.93	1,595	3,200			
.92	1,650	3,300			
.91	3,195	6,400			
.90	1,750	3,500			
.89	1,350	2,700			
.88	1,340	2,700			
.85	1,685	3,300			
.84	2,150	4,200			
.83	1,595	3,200			
.81	2,250	2,250			
.76	1,360	2,700			
.70	1,235	2,500			
.64	895	1,700			
.64	1,325	2,700			
.62	795	1,500			
.60	795	1,500			
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