

June 8th 2022

To; Capitola Bar and Grill Et. Al.

From; La Serena Properties landlord for CBG

Re; Harassment Claim

HARASSMENT (civil) Def:

"UNLAWFULL VIOLENCE, LIKE ASSAULT OR BATTERY OR STALKING, (OR) A CREDIBLE THREAT OF VIOLENCE, AND. THE VIOLENCE OR THREATS SCARE, ANNOY, OR HARASS SOMEONE AND THERE IS NO VALID REASON FOR IT."

Commercial tenant (CBG) has alleged that it has been harassed by either a tenant in the landlords property or by landlord. It is not completely clear. Landlord has requested statements from the tenants, Capitola Police, any and all employees and owners of CBG.

Landlord has received a statement from one residential tenant, e-mails from one other residential tenant, copies of YELP reviews from other commercial tenants. Landlord did not receive any statement from CBG or from any of their employees or owners.

Landlord engaged in conversation, a third party HR expert to get an opinion as to whether the facts presented support the claim there had been any "harassment ."

Facts as presented:

1. Residential apartment tenant contacted in person a gentleman that identified himself as the manager of CBG. Tenant requested a reduction of the noise level. The response was that he (the manager) would look into it. This was described as a simple and civil conversation. No level in reduction of noise occurred.
2. Residential apartment tenant again contacted in person the same individual about a week later regarding the noise level. Tenant was offered free drinks. Tenant declined the free drinks. Again this conversation was described as "civil." There was no reduction in the noise level according to the apartment tenant although.

3. Tenant received a call from "Lasalle" who said he was the owner of CBG. This occurred 10 minutes after the previous conversation with the "manager" of CBG. Tenant was chastised for "moving in above a bar" by the owner of CBG. Again the tone was civil but "completely unproductive" as described by tenant.

4. Tenant contacted Captain Sarah Ryan of the Capitola police to discuss the problem. According to tenant she claimed "they (CBG) are a problem and we will look into it."

5. I personally went to the property and recorded a 105 to 110 DB outside the property from across the street and DB levels that rose to 100 DB within the apartment of tenant. The noise level complaint by apartment tenant is credible as witnessed by me. I recorded the decibel level on an i phone ap. That ap is reported to be within 2% accurate. The recording (s) is available to anyone who want them.

6. Residential tenant claims to have had the tires of his bike slashed twice since contacting the police.

7. Landlord placed a "Cease and Desist" notice on both doors of CBG informing commercial tenant of both the breach of lease and the violation of City ordinance regarding noise.

8. One of the tenants in the building is related to the building owner.

9. This concludes all contact(s) by any apartment tenant with employees or owners of CBG. (reported)

#### CONCLUSION;

The HR person contacted by landlord has declined to write a report as the claim for harassment appears "absurd" on its face. "Does a tenant renting a space in a building abdicate their right to quiet enjoyment as provided within their lease by a simple complaint and request to "turn it down?"

Further there has been no report of violence or threat of violence made to any employee or owner of CBG by the owners of CBG. No report of violence or threat of violence has been reported to Capitola Police by CBG. Of concern (IS) the repeated slashing of apartment tenants tires although there is no police report of that incident or witnesses of the incident (s).

I will be forwarding this report to the building insurance carrier as required by them after all parties have had a chance to review and respond. Harassment is a serious allegation and the landlord will always take this or any other claim or breach under the lease seriously.

Ongoing is the noise complaint(s) made by residential tenants of the building. The landlord has for 40 years attempted to insure that a legitimate restaurant only venue occupy the premises. This is outlined in the lease Section 1.09:

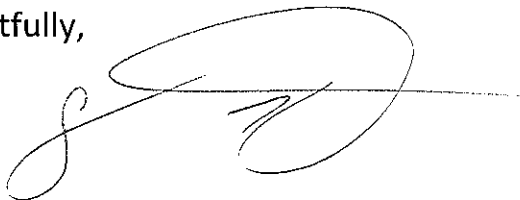
PERMITTED USE/ EXCLUSIVE USE

"TENANT SHALL USE THE PREMISES FOR A RESTAURANT, AS DEFINED IN THE CITY OF CAPITOLA USE PERMIT EXISTING AT THE TIME OF EXECUTION OF THE LEASE, AND FOR NO OTHER PURPOSE."

"Restaurants" have successfully operated in this location over this 40 year period without bands, karaoke, open mic and all those elements associated with a "night club". I feel that most honest opinions would say that a bandstand- live music venue is not a good fit in a commercial -RESIDENCIAL building. It is further not at the discretion of the restaurant tenant to say; " Hey, we got a music permit, this supersedes any other provision in the lease."

It is the hope of the landlord that Capitola Bar and Grill will reverse course and be a responsible tenant in the building and in the village. The other tenants have all expressed a willingness to accommodate "reasonable" disturbances. They all understand where they live.

Respectfully,

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a horizontal line and a large, circular flourish.