



FEDERAL COMMUNICATIONS COMMISSION
ENFORCEMENT BUREAU
WESTERN REGION

San Francisco Office
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Pleasanton, CA 94588-8543
(925) 416-9717

December 14, 2011

24 Hour Fitness Sunnyvale – East Arques
Sunnyvale, California 94086

NOTICE OF UNLICENSED OPERATION

Case Number: EB-10-SF-0293
Document Number: W201232960004

The San Francisco Office received a complaint of interference that an unlicensed broadcast radio station on 90.5 MHz was allegedly operating in Sunnyvale, California. On December 8, 2011, agents from this office confirmed by direction finding techniques that radio signals on frequency 90.5 MHz were emanating from 1211 E. Arques Avenue, Sunnyvale, California. The Commission's records show that no license was issued for operation of a broadcast station at this location on 90.5 MHz in Sunnyvale, California. The San Francisco agents attempted to inspect the subject radio station transmitter but 24 Hour Fitness personnel refused to allow a complete inspection.

Radio stations must be licensed by the FCC pursuant to 47 U.S.C. § 301. The only exception to this licensing requirement is for certain transmitters using or operating at a power level that complies with the standards established in Part 15 of the Commission's rules, 47 C.F.R. §§ 15.1 *et seq.* Your operation on frequency 90.5 MHz was measured at 5,576 microvolts per meter ($\mu\text{V}/\text{m}$) at 3 meters. This exceeds the allowable unlicensed limit of 250 $\mu\text{V}/\text{m}$ at 3 meters established in Part 15. Thus, this station is operating in violation of 47 U.S.C. § 301.

Section 303(n) of the Communications Act of 1934, as amended, 47 U.S.C. § 303(n), gives the FCC the authority to inspect all radio installations associated with stations required to be licensed by any Act, or which the Commission by rule has authorized to operate without a license. Your refusal to allow an inspection of your radio equipment is a violation of Section 303(n) of the Communications Act of 1934, as amended.

You are hereby warned that operation of radio transmitting equipment without a valid radio station authorization, and refusal to allow FCC agents to inspect the radio transmitting equipment that you are operating, constitutes a violation of the Federal laws cited above and could subject the operator of this illegal operation to severe penalties, including, but not limited to, substantial monetary forfeitures, *in rem* arrest action against the offending radio equipment, and criminal

sanctions including imprisonment. (*See* 47 U.S.C. §§ 401, 501, 503 and 510.)

UNLICENSED OPERATION OF THIS RADIO STATION MUST BE DISCONTINUED IMMEDIATELY.

You have ten (10) days from the date of this notice to respond with any evidence that you have authority to operate granted by the FCC. Your response should be sent to the address in the letterhead and reference the listed case and document number. Under the Privacy Act of 1974, 5 U.S.C. § 552a(e)(3), we are informing you that the Commission's staff will use all relevant material information before it to determine what, if any, enforcement action is required to ensure your compliance with FCC Rules. This will include any information that you disclose in your reply.

You may contact this office if you have any questions.

Thomas N. Van Stavern
District Director
San Francisco Office
Western Region
Enforcement Bureau

CC: 24 Hour Fitness USA Corporate Headquarters
San Ramon, CA

Attachments:
Excerpts from the Communications Act of 1934, As Amended
Enforcement Bureau, "Inspection Fact Sheet," March 2005