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## Breaking the Sound Barrier

As CrossFit gyms penetrate higher-traffic areas, some neighbors are struggling to adjust to the new levels of energy and noise.

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By Chris Cooper

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Ian Wittenber

“You’re going to have to trust me here. Get out of your car, and I’ll drive it. Promise I won’t steal it.”

It’s winter in New York, New York. Jarrett Perelmutter has interrupted his coffee run to help a stranded motorist: A Ford Explorer is stuck in the filthy snow outside a laundromat. Sockless in his trademark golden shoes—leopard-print

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Chuck Taylor knockoffs this time—Perelmutter pushes the truck, jumps up and down on its rear bumper, and digs through the frozen slush with a borrowed shovel. Finally, he commandeers the car, rocking it forward and backward, missing other cars by fractions of an inch. After 20 minutes, the car is free, and the owners peel away into heavy traffic.

“Courtesy of Brick CrossFit!” he calls after them.

The face of Brick CrossFit NYC, “J.P.” is a six-time world kickboxing champion who has won battles with his fists, feet and brain. He’s persuasive, and he can even coax cynical New Yorkers out of their cars. In the ring, Perelmutter never faced anyone he couldn’t beat.

But Manhattan could be his toughest opponent yet. As Perelmutter and other affiliates are learning, you can’t fight city hall.

### From the Ground Up

The floor at Brick CrossFit NYC looks the same as that in any CrossFit gym: painted concrete. But buried in the floor are special springs that absorb shock, and small gaps have been cut around each support pillar to stop vibrations from spreading to the building above. At a cost of US\$200,000, it’s perhaps the most expensive floor in CrossFit. It isn’t decorative and it doesn’t enhance performance. It’s just indicative of the civic hoops Perelmutter has had to jump through. What’s more, it wasn’t enough to satisfy his neighbors, who later used acoustic studies to allege Brick was in violation of noise bylaws.

“When I originally decided to come to New York, the scale of my project was going to be much smaller. I thought it was going to cost \$1.2 million. It’s actually going to be \$1.6 to \$1.7,” said Perelmutter.

That extra half-million won’t be spent on more plates or paying coaches; the lion’s share will go to lawyers.

The Board of Standards and Appeals (BSA) in New York regulates land use for development and construction. In 1991, it created a Physical and Cultural Establishment Permit requiring gyms to meet specific physical conditions to acquire the right zoning to operate.

“First, you have to show that you do more good than harm for your immediate community,” said Perelmutter. “You have to show you’ll be a positive asset to the neighborhood. Second, you have to prove there won’t be any illegal activity. This all started from all the porn happening in the massage parlors in the 1980s. Third, you have to meet all the guidelines of safety: sprinklers, fire routes—that kind of stuff.”

It’s all routine paperwork, but new businesses working for a BSA permit face a catch-22: “Do we go through the BSA process and take eight months to build out or do we try to sneak through without going through it, build out in four months and hope we don’t get caught?” asked Perelmutter. “And then you sit around every day biting your nails, waiting for an inspector to show up and fine you.”

The first step in Perelmutter’s bid for a BSA permit was to hire an attorney to put together a plan describing the actions and services of the businesses. The lawyer also acts as an advocate at a Community Board meeting attended by residents.



Allison Trusheit

**Located next to a recording studio in North Hollywood, California, CrossFit Synapse started receiving noise complaints almost immediately.**



Ian Wittenber

***Bureaucracy and red tape dramatically increased the costs of getting Brick CrossFit NYC up to code, and some issues are still outstanding.***

"If a hundred guys show up to oppose your business, you're screwed," Perelmutter said. "But if your community BSA meeting is called before you open, you generally don't have an opposing party. No one knows you exist. You don't have a footprint yet."

Brick's Community Board meeting wasn't organized until after its opening date. This would prove to be an expensive mistake.

On a beautiful New York autumn day before Brick opened, Perelmutter wanted a bonding experience with his future coaches, so he organized a workout with three of them. After dragging four rowers into the street, Perelmutter and his staff set up to try the half-marathon rowing event from the 2013 Reebok CrossFit Games.

"The gentleman ... came out on the street, walked toward us and said, 'Hey, don't you guys have enough space to do that inside?'" Perelmutter recalled. "But then he just got into a car and left. No big deal."

When the resident returned an hour later and found the Brick coaches still rowing on the sidewalk, he became irate.

"He was saying, 'Are you sure this is even legal? You guys have permits for this sort of thing? You should feel lucky I don't call the city on you,'" Perelmutter said. "I turned to one of my coaches and said, 'This is the opening of Pandora's box.' I knew."

At 5:45 a.m. on opening day, Aug. 1, 2013, Brick unlocked its doors just as its telephone rang. Though they didn't yet have a full permit, Perelmutter was forging ahead, fully expecting to be granted a BSA permit in short order.

The tenant on the phone made a complaint claiming he was disturbed by noise while walking his dog. Then he hung up.

Over the next several weeks, similar calls began to pile up. Perelmutter alleges a campaign was being orchestrated by some of the tenants above.

On Nov. 14, 2013, his opponents raised their game based on acoustic studies. According to the Community Board's Dec. 10, 2013, [report](#), residents had hired an acoustic consultant who issued three reports between August and October. Brick hired its own consultant, who issued a report in October as well. The Community Board report noted that both consultants had found noise levels to be above code limits.



Brick was sued by the condo board at 257 West 17th Street. The lawsuit was filed with the Manhattan Civil Supreme Court. The suit noted Brick was “lacking the legally required physical culture establishment permit for the operation of such a business, for which a violation has been issued by the New York City Environmental Control Board.”

The suit also alleged that Brick’s noise-abatement plan, to be completed between Oct. 31 and Dec. 1, 2013, was not on schedule.

Brick representatives showed up in court with their attorney and met with the judge, who was less than impressed with the situation, according to Perelmutter.

“The judge says, ‘Listen: if there’s a sound problem, fix it. I don’t want to be bothered in court with this kind of bullshit,’” Perelmutter said.

The Community Board’s Dec. 10, 2013, report was a unanimous condemnation of Brick, but not a permanent one: It recommended the BSA deny an occupancy permit until certain conditions were met.



Allison Truscheit

**Coaches at CrossFit Synapse were threatened in front of clients, and NRG Recording Services eventually filed for a temporary restraining order.**

It noted, “Brick gym has been operating illegally without the required special permit since August,” and went on to list six conditions for approval. First and foremost, noise would have to be brought in line with the New York City Noise Code. Other conditions related to gym members’ blocking of the sidewalk while jogging and the implementation of a communication system between Brick and the building residents.

With new noise data and the recommendations of the sound engineers in hand, Perelmutter spent an additional \$250,000 to add an acoustic drop ceiling and floor padding. He built special portable platforms with custom Rogue mats that would absorb the shock of dropped weights. In October 2014, he replaced all the rubber matting in the gym with thicker rubber and cut long tracks in his slab to dampen vibration.

“There’s about 21-30 days for the floor (renovations), so we figure around the new year we’ll be done,” Perelmutter said in November 2014. “Once it’s all said and done, the BSA signs off on the document.”

Perelmutter’s best hope is now a temporary certificate of occupancy. But a year after the original suit, Brick is still in court.

“We should have opened up, gotten our certificate of occupancy, and got slapped with a fine for not getting our BSA approval. It would have been between \$500 and \$1,000, and it would have taken 12 months before they even came back to us. Now we’re millions of dollars into this deal,” Perelmutter said.

### Dropping a Beat?

Jimmy Lujan and Allison Truscheit’s original gym shares a wall with a synagogue. They don’t have noise complaints. But when they opened their second—CrossFit Synapse in North Hollywood, California—they were surprised with complaints from their new neighbor, a recording studio. The two businesses are in separate buildings whose foundations meet underground.

NRG Recording Services began complaining their microphones were picking up vibrations from dropped barbells soon after Synapse’s opening on Aug. 10, 2014. Emails escalated to meetings between lawyers, and musicians



Ian Wittenber

***It's possible this Brick CrossFit NYC athlete is making a sweat angel on the most expensive floor ever put in an affiliate.***

entered the gym and threatened the coaches in front of clients. Finally, NRG filed a temporary restraining order, which would have forced Synapse to cease operations.

Given only 24 hours to build a case and appear in court, Lujan and Truscheit were still able to convince the judge to deny the restraining order.

"The judge ruled they (NRG) have an idiosyncratic business," said Lujan. "A normal person wouldn't be bothered by what we're doing."

Synapse's case was aided by a letter from the rabbi with whom they share a wall at their first gym, in Tarzana, California. Twenty-five members, including a sheriff and a war veteran, wrote declarative letters in support of Synapse CrossFit.

Eager for a story mentioning NRG clients such as Jay-Z, Kanye West and Miley Cyrus, media rolled out to Synapse after a lawsuit was filed in Los Angeles Superior Court. The [ABC7.com story](#) was a surprise but had a silver lining, according to Lujan.

"They said in the interview that they didn't have a noise issue. They're picking up reverberations through the ground," he said. "But in L.A., there are zero ordinances for vibration, only ambient sound, which they admit they don't have problems with."

NRG's complaint also rests on Synapse CrossFit's presenting a "public nuisance." Truscheit is optimistic they don't fit the "nuisance" classification either.

"A judge would rule us (a nuisance) if a reasonable or ordinary person would find us to be a nuisance," she said. "But their business is so specific and outside the realm of 'normal,' they can't have a nuisance claim. It's up to them to isolate themselves."

Adding to Synapse's case is their proximity to—and shared foundation with—another recording studio near their Tarzana gym.

"The Tarzana location (Synapse Strength and Conditioning) is between a synagogue and a massage place," Lujan said. "There's another recording studio, bigger than NRG, 200 feet away on a common slab. No issue."

While Synapse's case looks good, Truscheit and Lujan are still forced to deal with legal fees, the time required to fight NRG's lawsuit and the inconveniences caused by strained relations between neighbors. Despite a friendly landlord who knew about CrossFit, they still face months of legal wrangling. Building owner Alfred Margoosian is also named in the suit.

"It's pretty damn exhausting," said Lujan. "It's hard when members see articles online and say, 'We didn't know you were involved in a lawsuit with Jay-Z.' We thought we'd already won with that last ruling."

He continued: "They haven't had any engineers come out to help them solve the problem. That would be cheaper than hiring lawyers, but no. They're just suing us."

"We're just a mom-and-pop CrossFit box," said Truscheit. "Two kids who got lucky. We're just trying to survive and take a paycheck every once in awhile."

### Noise Heard Across the Continent

Hosts of business owners have run into noise issues and bureaucratic nightmares, and CrossFit affiliate owners are no different. While some have perhaps brought problems

on themselves by declining to do the appropriate research before opening, others have been choked by red tape. Things can get especially hairy when civic staff members confuse the rules. And it isn't always helpful when a mayor gets involved.

As reported in April in [The Valley Breeze](#), Mayor Charles Lombardi assured Ocean State CrossFit owner Mike Berling that he wouldn't need to apply for a zoning variance before opening his new gym. In fact, Lombardi had called Berling and invited him to open a gym in his town, North Providence, Rhode Island.

When hundreds of people turned out for Ocean State's opening on March 29, 2014, a neighbor—Jay Metzger—was turned off. He filed a complaint about the "seismic booms" emanating from the box. Metzger is quoted as saying the vibrations sounded "almost like a mortar shell." He claimed that one dropped barbell was enough to "shake my house" and keep his child awake.

As Perelmutter discovered at Brick CrossFit, one vocal resident's complaints can be louder than any bouncing barbell. The Department of Planning and Zoning served Berling with a cease-and-desist order 10 days after the gym opened. There was no hearing. They had seven days to vacate the premises or face a \$500-per-day fine.



Aaron Meredith

*Ocean State CrossFit in Rhode Island before it was shut down just 10 days after opening.*



"The city ruled against us. They shut us down. That happened in July. We lost the battle," said Aaron Meredith of Ocean State CrossFit.

During build-out, Berling had consulted with a zoning officer who retired just before the opening of Ocean State CrossFit. Suddenly a new zoning officer claimed Berling's business certificate didn't give approval for the facility.

In short, it was a bureaucratic nightmare.

Berling closed his gym immediately, but Lombardi wrote a mayoral declaration allowing the gym to remain open during his appeal.

In summer, the North Providence Zoning Board of Appeals denied the gym's appeal, prompting the gym's landlord, Rosemaria DeMarco, to say she and Berling would [sue the town](#).

"We took a major hit. Our cash reserves are eaten up. Now I have a whole box worth of equipment sitting in storage," said Meredith.

He added: "It's 100 percent slimy, but that's the nature of (Rhode Island) politics. We will not be going back to North Providence.

### Red Tape Is the Stickiest

Perelmutter is now involved with another location, Brick CrossFit Grand Central Station, as well as Brick CrossFit in Hollywood, California. He travels across the country regularly and is still in court over Brick CrossFit NYC. Still, he appears placid on the surface. He didn't want trouble, but he's up for the fight.

"You can't expect to borrow \$20,000 from your father-in-law, spend \$19,500 at Rogue and \$500 on T-shirts, and open a gym. It's not 2007 anymore," Perelmutter said.

While other affiliates' startup costs are far less than Perelmutter's, his comment is especially applicable when starting a posh 8,000-square-foot gym in Manhattan. Still, Perelmutter believes his example can be a lesson to new affiliate owners who aren't prepared for zoning and permitting requirements.



Allison Truscheit

***While the odds are in their favor, Truscheit and Lujan are disheartened they ever had to hire a lawyer and go to court.***

"We're all alphas here. We're in such a rush to prove that we can succeed that we're blind to risk. In a heightened state of emotion, you can make mistakes," Perelmutter said.

"It's OK to not know what you're doing when you start. It's OK to ask someone how they did it or take what they did and make it work for you. My phone is always open," he explained.

And he isn't bitter about the battle he's in. To him, it's all part of the game.

"With all the joy and pleasure comes all the stress and trials of great success," he said.



### About the Author

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