

by Cora Jordan Copyright (c) 1994 Nolo Press

This article originally appeared in the Fall 1994 issue of the Nolo News. It was adapted from Neighbor Law: Trees, Fences, Boundaries and Noise (2d edition), published by Nolo Press. You may copy this article as long as you include this copyright notice.

- * Talk to Your Neighbor
- * Get a Copy of Your Local Ordinance
- * Warn Your Neighbor in Writing
- * Suggest Mediations
- * Call the Police
- * Sue for Nuisance
- * If You're a Tenant
- * About Neighbor Law: Trees, Fences, Boundaries and Noise

It's 2 in the morning. You're lying in bed trying to sleep because you have a big meeting tomorrow morning. You feel a pounding sensation in your head. At first, you think it's a headache. But then you realize that it's the funky disco beat blasting from your next-door neighbor's stereo, reverberating through your bedroom and rattling your windows.

Before you pound on the neighbor's door and yell something you'll regret, or, even worse, resign yourself to living with the noise, try some more constructive alternatives.

1. TALK TO YOUR NEIGHBOR

Your first step is to talk to your neighbor and try to resolve your differences in person. It's hard to believe, but sometimes neighbors are not aware that they are causing a disturbance. Even if you're ready to punch somebody's lights out, try a little sugar instead.

2. GET A COPY OF YOUR LOCAL ORDINANCE

Your next step is to get a copy of your local noise laws. Most cities and counties have ordinances that control the times, types and loudness of noise. For example, many local ordinances prohibit unreasonable vehicle noise (like honking the car horn early every morning for a carpool) or dogs barking all night long every night. Noisy neighbors are in for a warning or even a fine. You can look up your local ordinance at city hall, a public law library or the public library. Make at least two copies of it, one for your neighbor and one for yourself.

3. WARN YOUR NEIGHBOR IN WRITING

If things don't improve, ask your neighbor again -- this time in writing -- to quiet down. Don't make threats, but state that if the situation doesn't improve you'll be forced to notify the authorities. Enclose a copy of the noise ordinance. Keep a copy of your letter; you'll need it if, as a last resort, you later sue your neighbor.

4. SUGGEST MEDIATION

Most cities offer free or low-cost mediation services, which means they provide an impartial mediator who will sit down with you and your neighbor and try to help you resolve your differences.

Just call the mediation service; someone there will contact the neighbor and suggest mediation. (These people are very good at convincing others to give mediation a chance.)

5. CALL THE POLICE

If you have done all of the above and your neighbor has responded by turning up the volume, now is the time to call the police (or the Animal Control officer if the problem is a barking dog). Try to get the police to come while the noise is occurring.

Of course, you can call the police on a noisy neighbor the first time the music gets too loud for your taste. But the police will be more sympathetic to your situation if they see that you have tried to solve the problem on your own.

6. SUE FOR NUISANCE

If all else fails, you can get your neighbor's attention-and maybe some money-by suing in small claims court. You can sue your neighbor for nuisance if your neighbor's noise unreasonably interferes with your enjoyment of your property. In the lawsuit, you ask for money to compensate you for the interference with your right to peacefully enjoy your home.

Small claims court is easy and inexpensive, and you don't need a lawyer. You will need to show the following:

- * There is excessive and disturbing noise.
- * Your enjoyment of your property is diminished.
- * You have asked the person to stop the noise (your letter should be enough to prove this).

To prove your case, you can use police reports, witnesses, recordings, your own testimony and the testimony of neighbors or other witnesses.

The amount you'll want to ask for will depend on how much the noise bothered you. Did you lose sleep? Were you unable to carry on your usual activities, such as reading, playing music or talking to friends? Decide on a reasonable dollar amount per day, and multiply that figure by the number of days you've been seriously bothered. The amount of money you can ask for in small claims court is limited, between \$2,000 and \$5,000 in most states.

IF YOU'RE A TENANT

Noisy neighbors are always bad news. But when you share walls with the insensitive neighbor, the problem is especially vexing. The good news for renters is that, in addition to all your other options, you have built-in allies in the battle to keep your apartment livable: your lease or rental agreement and your landlord.

Remember the lease or rental agreement you signed? Chances are your neighbor

signed one too. Standard leases and rental agreements contain clauses that entitle you to "quiet enjoyment" of your home. A neighbor who is blasting the stereo in an unreasonable manner is probably violating the lease or rental agreement and can be evicted for doing so.

If you warn your neighbor about the noise in writing and are sure that your lease entitles you to a reasonable amount of quiet, send a copy of the lease along with your letter. In your letter, tell the neighbor that the next complaint will be to the landlord or neighborhood association if the noise continues.

If warning your neighbor doesn't work, go to your landlord. Most tenants don't like to complain to the landlord or manager about unreasonable noise or other nuisances because they are afraid of being branded as troublemakers. But other neighbors are probably bothered by the noise too. Get together with them and complain to the landlord as a group. It's easier and you might get faster results. Most landlords don't want arguments between tenants and won't put up with tenants who cause trouble by ignoring signed lease or rental agreements. Your landlord will probably tell the noisy tenant to pipe down or face eviction.

Dancing Devil Cd