

Your Right to Peace and Quiet

The noisy and the nosey are becoming more numerous in our society, but the courts stand ready to protect you

By **GEORGE WEINSTEIN**



IN WHITE PLAINS, N.Y., an irate citizenry, fed up with motorists who lean on their horns in traffic jams or toot them instead of ringing doorbells, asked the city council to crack down. Blow your horn unnecessarily in White Plains today, and it may cost you \$10. The next target: power mowers and other noisy gardening gadgets.

It's the same everywhere. Enemies of peace and quiet—blaring hi-fi's, flashing billboards, drive-in movies, pungent pizza shops, telephone pitchmen, jangling ice-cream wagons, and a growing conglomeration of others—assail us from all sides and at all hours.

Can you get relief? Yes. The law will generally recognize your right to peace and quiet—and privacy—but very often you have to put up a fight for it.

Take barking dogs, for example. In Pennsylvania, a dog got lonely every time his owners left the house and kept barking until they returned. That could be for hours at a time, day or night. After six months of protesting, next-door neighbors sued. The judge ordered the owners to "abate the nuisance," then suggested a way to do it: take the dog along with them.

In another nuisance case, a woman who loved to play the marimba hammered away at it from nine in the morning until bedtime, day after day. When the neighbors began to kick, she retaliated by serenading several of them every time they

came and went. A Mr. Kelly got "When Irish Eyes Are Smiling"; a naval officer, "Anchors Aweigh"; an elderly woman, "Little Old Lady."

The courts finally put the quietus on her but made some allowance for her devotion to her art. She was permitted to play for no more than an hour at a time and for no more than three hours a day—but no serenades. These were specifically forbidden by name in the court order.

What about noisy neighbors in general? You usually have to put up with them. If their noise is habitual, you can ask the police for help, but they usually steer clear of quarrels between neighbors unless some law is violated. And with complaints about fans or air conditioners that run all night, you will get nowhere.

You have a better chance against bothersome commercial enterprises. In a Pennsylvania case, the gun play, singing, and other sounds of a drive-in movie reverberated through a residential area until 1:30 every morning. After repeated warnings, the court ordered it closed.

EVEN IF THE ENTERPRISE is essential, it must not operate in a disturbing manner. A neighborhood bakery in New Jersey, whose business expanded, started to bake bread at night. Neighbors soon began to complain about rattling trays, mixing machines, and other noises that kept them awake. The bakery said these noises were unavoidable. The court thought otherwise. The bakery then found it could eliminate them.

Factory whistles, construction begun at 6 a.m., and other unreasonably early or late activities have been ruled nuisances at various times.

So have night baseball games, used-car lots, and flashing billboards whose lights have kept people awake. In one such case, a shoe store kept a row of lights on every night. They shone directly into the bedroom of the house next door. A judge ordered them doused and awarded the occupants damages for their lost sleep.

You don't have to put up with persistent and obnoxious smells, either. For several months, a Maryland homeowner and his wife frequently woke up nauseated by the pungent odor of asphalt mixture. It came from a corner lot next to their home where several asphalt-carrying trucks were parked nightly.

WHEN THE TRUCK OWNER said he had no other place to keep the trucks, the suffering couple went to court and got an injunction. And in West Virginia, when a feuding housewife made a steady practice of frying onions and directing the odors at a neighbor down the hall, she was ordered to cease and desist.

Another of your rights under constant attack—that of privacy—is getting firm legal support. In one case, an insurance company hired two detectives to disprove a claim for injuries. They trailed the man making the claim, took pictures, and watched him through binoculars. They even crept up to his house and spied on him through his windows. The claimant filed suit, charging violation of his right to be left alone. He collected.

Yes, you—and your neighbor—do have a right to privacy, peace, and quiet. And in these days of growing encroachments from all sides, it's good to know that the law guarantees that right.

COVER:



Dad and his eager young brood are carting home the big prize—a freshly cut evergreen for the Christmas holidays. Fred Sieb caught their moment of triumph.

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