

What's That Racket!?

The Perpetual Issue of Noise Complaints

BY A.J. SIDRANSKY 6 MARCH 2025



Image credit: Getty/dragana991

In a shared-interest community, neighborly noise is an ever-present issue. Of course, one would hope that as neighbors, an effort would be made to keep noise to a minimum, and when asked to 'tone it down,' one would do just that. But that's not always the case. A recent dispute in a New York City co-op involving two formerly-friendly nextdoor neighbor shareholders and a talking bird resulted in a discrimination claim that ended the friendship and cost the co-op nearly a quarter-million dollars in fines and settlement costs.

It all sounds like the plotline for a season of *Only Murders in the Building*, but it happened. While the case may be an outlier and something of a curiosity, it does highlight the issue of noise in a vertical city, and how shareholders or owners in multifamily buildings can best handle and resolve noise complaints between neighbors—ideally before real acrimony and eye-watering legal costs are incurred.

No, You Just Can't Stop Paying your Maintenance

This reporter has firsthand experience with the problem of noisy neighbors. My wife and I had upstairs neighbors whose perpetual racket made us feel like we were living under a bowling alley for eight years. Though I had written to the board and the managing agent dozens of times, it wasn't until I asked for a copy of the building's noise policy for 'my attorney,' that the problem finally got some attention. And no, you just can't stop paying your monthly maintenance in protest of noise (or any other issue). That was the first thing my attorney told me. So then, what are the options?

Are All Noises Equal?

Are all noises equal? Are say, unruly children given more of a pass than loud music? What about occasional parties versus daily noise from exercise, like weight lifting?

"Unfortunately," says Mark Hakim, a partner with NYC-based firm Schwartz Sladkus Reich Greenberg & Atlas. "Noise is noise, and if that noise is violative of the governing documents or applicable law, it must be attended to. Certainly, if noise is produced in a manner that is expressly violative of a house rule (e.g., after certain hours, because of insufficient carpeting, etc.) the board will have an easier time demanding abatement of that noise. However, it is not always that easy or clearcut. Children, for example, by their very nature produce more noise generally than an adult. Their exuberance and laughter may be music to one person's ear, and yet extremely disruptive to another—particularly if it is later in the day, or if someone is working from home. Regardless, I advise boards to be mindful of the underlying reason for the noise, and to work with the residents to address it in a way that hopefully assists all parties."

Hakim recommends that shared-interest buildings investigate to determine if the noise is persistent and truly an issue. They should locate and confirm the source of the noise, and that the unit which is the subject to the complaint is otherwise in compliance with rules regarding noise and carpeting. Sometimes, a sound engineer must be brought in to document and assess the problem conclusively.

The Road to Quiet Enjoyment

Governing documents generally contain a clause about 'quiet enjoyment' of one's unit—commonly known as a 'habitability clause.' That said, all owners and shareholders should keep in mind that as bad as a noise problem may be, picking a fight with one's neighbor won't lead to quiet enjoyment, and may well exacerbate the situation.

"I am an advocate of amicable resolutions," says Hakim, "though that it is not always easy. I would not hesitate to recommend that a person first approach their neighbor to see if it can be resolved in a manner that's agreeable to both parties. That is the best outcome, and often we find that the party creating the noise was unaware of it altogether, or of the extent of it. Regardless, documentation is important. Make sure you

are documenting the dates and times, and what it is that you're hearing. If an amicable resolution between residents is not in the cards, contact management and discuss it with them, as they may need to get involved and act under the corporate documents."

As an example, Hakim was recently involved with a case where a terminally ill resident was moved to in-home hospice in their apartment. Shortly thereafter, the ailing resident raised complaints about noise from their upstairs neighbor. In this instance, says Hakim, "We worked with the two different residents and were able to get the upstairs neighbors to install additional padding and noise reducing materials, for which the downstairs neighbor agreed to split the costs. In this case, each party felt heard, and the issue resolved. That is not representative of all such complaints, and they often devolve into letter writing campaigns, followed by threats, and eventually legal action. Once legal action has commenced, my feeling is that all parties have lost—so the best way to fix this is to find an amicable solution before it gets to that point. Boards should be proactive in their assistance, to the extent they can."

Co-op vs. Condo

Are there any differences in the way this problem is handled between condo and co-op ownership?

"Boards of directors of a co-op generally have an easier time resolving noise issues than do boards of managers in condominiums, given the more landlord/tenant relationship between a cooperative board and a shareholder/lessee," says Hakim. "It allows the co-op to rely on language in the proprietary lease in its attempts to address and resolve noise complaints. A co-op board has a little bit more in the way of its legal arsenal than that of a condominium, in which the unit owners are owners of real property and often have to resort to the courts under claims of nuisance to resolve matters. That does not mean the board of a condo does not get involved; rather, they often get involved to help and facilitate a resolution. Notwithstanding, regardless of whether it is a cooperative or condominium, boards do have obligations to enforce their community's rules uniformly and fairly, including those which address noise. While a cooperative board must get involved regardless of the house rules, as a shareholder may claim a breach of the warranty of habitability, a condominium board is generally thrust into the middle of these conflicts based on the house rules or another similar claim."

So, next time you want to listen to your favorite five hour Wagner opera as loudly as if you were in the front row at the Met, or your children decide they want to practice basketball in the living room, think of your neighbors. A little consideration goes a long way.