

DEAR READERS: Do you have a legal question that has been burning on your mind (but are afraid to ask an attorney...ching...ching)? If so, please send your questions to Debra A. Newby via email (contact information below). Your name will remain confidential. Although every inquiry may not be published, we will publish as many as possible. Finally, this legal column does not create an attorney-client relationship and is intended as a community service to discuss general legal principles.

Q: During the holidays my neighbors were partying for what seemed to be all hours of the night..loud music, cars coming and going... I could even hear the champagne corks pop! I don't want to be a "scrooge", but isn't there an anti-noise law? I finally went to sleep with earplugs. What can I do next time? H.W.

A: The best and most practical advice I can render is...join them next time! That way you can perhaps choose the music (and the volume level)? Plan B is to download the classic Betty Boop cartoon "Stop That Noise" and rebound the decibel level back at 'em!

Seriously though, you will be sad to hear (if you still can from the noise) that Sonoma County **does not** have a formal "anti-noise" ordinance. Some of our neighboring communities have considered such an ordinance, which typically mandates the acceptable levels of decibels and the allowable hours of noise making. Some cities and counties around the country have banned certain noisemakers, like leaf blowers.

Noise pollution does wreak havoc on our senses. Even the Romans with all their might and fright recognized that dangers of loud noises—chariots were prohibited in the streets of Rome during the night.

In legal terms, though, what you describe could be considered a **nuisance** if the racket is such that it is injurious to your health, or is indecent or offensive to the senses, or an obstruction to the free use of your property so as to interfere with the "comfortable enjoyment of life". If the problem is so vast that it affects an entire community or neighborhood, then it is considered a "public nuisance". Believe it or not, urinating in public is considered a "public nuisance" (and is a crime—see CA Penal Code 370 & 372). Think of a leaky septic system that creates that distinctive whiff in the wind; or maybe a barn full of rats that are plaguing the neighboring farms. Now that's a public nuisance.

The problem with pursuing the "nuisance" theory is that to resolve a nuisance, you typically have two choices: 1) file a civil action (which is costly, plus it may likely start a feud with your neighbor); or 2) encourage a government official to "abate" the public nuisance. For example, back to the rats. You can report any **public** hazard or nuisance by contacting the Environmental Health Division of Sonoma County—Health Services (707-565-6565 or www.sonoma-county.org/health). You must be prepared, though, to

give your name and specific information about the public nuisance (sorry, no vendettas here against your ex).

Now back to your loud neighbors. The obvious option is to talk to your neighbors (either in person or call them if you have their number) and simply ask them to turn the music down and point the champagne corks in another direction. Most people, though, may not want to appear that confrontational, so they will call the Sheriff's Department and complain.

Assuming our loyal deputies are not on another pressing call, they will visit the scene and request that "peace and quiet" be reestablished. Even then, because there is no formal anti-noise ordinance in Sonoma County, the next formal course of action is to request that the officers file a "citizen's arrest complaint" against your neighbors for disturbing the peace **if** the music isn't turned down. Now, all this sounds pretty reasonable, unless the situation escalates and the officers pepper-spray the happy partygoers...but that's another legal issue!

Debra A. Newby is a resident of Monte Rio and has practiced law for 23 years. She is a member of the California, Texas and Sonoma County Bar Associations and currently maintains an active law office in historic Railroad Square in Santa Rosa. Her law practice emphasizes personal injury law (bicycle/motorcycle/motor vehicle accidents, dog bites, trip and falls, etc.) and expungements (clearing criminal records). Debra can be reached via email (debra@newbylawoffice.com), phone (707-526-7200), fax (526-7202) or pony express (10 Fourth Street, Ste 212, Santa Rosa, 95401).