

ACCEPTABLE NOISE VS QUIET ENJOYMENT

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Noise complaints are one of the most common occurrences that co-op boards, managing agents and the judiciary are asked to deal with; and they are among the most difficult to resolve.

While all tenants have the right to “quiet enjoyment” of their property, what that actually means is subject to interpretation and can vary widely.

It is important to note at the outset of any discussion about noise that the right to quiet enjoyment does not mean every tenant gets to live in complete silence.

Your neighbors, just like you, are allowed to make (some) noise in their homes, and management can only address the noise disturbances they have control over. Living in a bustling city and in a building with others always implies that some noise must be expected and tolerated.

There is, however, a difference between normal noise and excessive noise. If noise becomes a problem (to you), and you believe the right to quiet enjoyment is being violated, you probably should consider some of the steps outlined below.

- Check your lease for specific noise clauses. Some buildings outline quiet hours.
- You may want to try dealing with the excessive noise yourself. New York City has some suggestions that can be found at, <https://www1.nyc.gov/assets/dep/downloads/pdf/air/noise/residential-noise-control-guidance-sheet.pdf>
- Document the noise: make a note of when the noise is happening, what it is or what it sounds like, and how often it’s occurring. The more detail you can provide, the more likely others will be able to understand and appreciate your issue.

- Talk to your (offending) neighbor: Your neighbor might not realize the level of noise they are producing nor the anxiety and discomfort they are causing you. That said, if you don't feel comfortable approaching a neighbor, then you can ask your Board to provide a mediator to assist in bringing the issue to light.
- Ask for help: If you've approached a neighbor in good faith and the noise still hasn't stopped (to your satisfaction) you may want to formally request that your Board and managing agent address the issue (in writing). Again, the more explanatory evidence you can provide, the better. Don't expect too much from your board, though! The best a board can do in most cases is to act reasonably and in good faith, investigate thoroughly, enforce building rules where applicable, and attempt to facilitate a practical resolution.

All else failing, you can turn to the civil and judicial authorities.

- You can file a noise complaint with the City, on-line at, <https://portal.311.nyc.gov/sr-step/?id=aeae29d2-dc19-eb11-8441-0003ff8695eb&stepid=8f39d3a3-cd7f-e811-a83f-000d3a33b3a3> But be aware: in New York hundreds of thousands of noise complaints filter through the 311 system every year!
- If despite all of your efforts, your grievance is still unresolved, you can try small claims court. The basic rule you can expect to be applied by the courts is that in order for noise to constitute a legal nuisance it must be substantial, unreasonable, and caused by an act or failure to act. Noise during daytime or early evening hours or from normal and expected life activities is generally deemed not to be unreasonable or excessive — examples being heavy walking, children playing, and even several hours of piano playing. Loud noises during late-night or overnight hours are often another story, since the courts recognize that noise that is reasonable during the daytime may be unreasonable at night and that the nature of the location where the noise is heard should also be considered.

It should be underscored here that the common theme even in court decisions is that each case is very fact-specific, and that common sense will be applied.