

Lash / Condo Law

OUR CONDO EXPERTISE

HOW TO DEAL WITH NOISE COMPLAINTS

PRACTICAL ADVICE, CREATIVE
SOLUTIONS, COST EFFECTIVE

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IT'S IMPORTANT TO CONTINUE
GATHERING AND DOCUMENTING
EVIDENCE AND INFORMATION
PERTAINING TO A COMPLAINT.
YOUR LAWYER WILL BE MORE
EFFICIENT AND YOUR LEGAL
FEES WILL BE LOWER IF
YOUR FILE IS UP-TO-DATE,
ORGANIZED AND COMPLETE.

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PRACTICAL GUIDE TO HELP YOU DEAL WITH NOISE COMPLAINTS

Compliance issues, and in particular noise complaints, can be very difficult to resolve. As no two situations are the same, Corporations and condo managers should consult with their legal counsel to ensure that they are acting in compliance with the condo documents.

When a Corporation faces a situation where there is a breach of the Condominium Act, 1998 (the “Act”), the declaration or the rules, the Corporation has an obligation to enforce compliance. Failure to act may expose the Corporation to liability and possible litigation. This pamphlet provides practical advice on how to best address noise complaints, through the three different phases of a noise issue.

Enforcement Policy

Since prevention is often the best medicine, Corporations should consider adopting an enforcement policy to assist them in addressing noise complaints in an efficient and systematic manner.

An enforcement policy will help streamline enforcement and will also ensure that owners and residents know what they can expect from the Corporation when these issues arise.



PHASE 1 - INVESTIGATION

- Open a separate file for each complaint
- Get details of the complaint in writing (e.g. type, timing and frequency of noise)
- The Corporation should collect as much evidence as possible from the complainant
- Consider advising the complainant to report noise disturbances to the police
- Gather information from neighbours. Identify the source of the noise:
 - Is the source outside or inside?
 - Is it a neighbour?
 - Is it a piece of equipment?
 - Is the source of the noise the Corporation's responsibility (i.e. emanating from the common elements or as a result of a common element deficiency)? If so, the Corporation may be required to take steps to rectify the issue
- Consider inspecting the unit as the source of the noise, but first consult legal counsel with respect to rights of entry
- Examine the Corporation's declaration and rules on noise, nuisance and flooring restrictions
- Consider retaining a noise/sound expert
- Determine the validity of the complaint:
 - Is the complainant overly sensitive? Is he/she the source of many other complaints that had no merit?
 - Is the source of the noise a recurring problem or the source of many complaints?
 - Is the source of the noise the corporation's responsibility (i.e. emanating from common elements)?



PHASE 2 - INTERVENTION

- Where the noise is ongoing at the time of the complaint, consider immediately intervening to get the offending owner to stop
- Send a letter to the offending owner and advise them of the problem:
 - Provide particulars of the problem and refer to the declaration, the rule or section of the Act being breached
 - Ask the owner to resolve the situation within a specific (but reasonable) period of time
- If required, send a second and final warning to the offending owner:
 - Provide particulars of the problem. Refer again to the
 - relevant provision being breached and to the previous letter
 - Provide the owner with a specific (and usually shorter) period of time to resolve the issue
 - The letter should specifically advise the owner that should the noise/disturbance continue, the matter will be referred to the Corporation's lawyer, which will result in legal fees being claimed against the breaching owner
 - In the case of a rented unit, the warning letter should go to both the owner and the tenant
 - If appropriate, consider mediation to resolve the problem (note that tenants do not have a right to request mediation)



PHASE 3 - LEGAL PROCEEDINGS

- Should the disturbance or breach continue, the matter should be referred to the Corporation's lawyer
- The lawyer will likely write to the owner to give them one last chance to resolve the noise issue and to comply with the Corporation's documents
- The Corporation should consider commencing legal proceedings to obtain compliance
- Depending on the wording of the Corporation's indemnification clause, the Corporation can usually expect to recover from the offending owner the legal costs of obtaining compliance or such expense could be treated as a common expense



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We are committed to helping our clients make informed decisions and create strategies to successfully resolve condo issues.

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