

Introduction

This IPFMA guidance note looks at common types of noise complaints in multi-unit developments and sets out steps that owners/residents may take to resolve these disputes. The IPFMA recognise that all residents within multi-unit developments have the right to reside in their property free from unreasonable noise disturbance. Common noise complaints that arise include;

- Late night music and parties
- Raised voices/shouting during the night
- Burglar and car alarms
- Barking dogs
- Wooden floors
- Washing machines operating during the night

What rights do you have to quiet and peaceful enjoyment of your apartment?

The lease you signed when purchasing your apartment should clearly set out the House Rules and Covenants that each owner agreed to be bound by while residing in the development. This will typically set down for example if pets or wooden floors are allowed and the times that residents must refrain from making noise. It is in the interest of all owners to ensure that they or their tenants abide by these rules.

Can your Owners Management Company (OMC)/Managing Agent help?

What your OMC or managing agent can do to prevent noise will be limited. It had been hoped that the Multi-Unit Development Act 2011 (MUD Act 2011) would provide sanctions to OMCs in relation to House Rule breaches. Although an OMC can now make additional House Rules, unfortunately it does not have any additional means or sanctions to enforce or ensure compliance.

Your Managing Agent will discuss the options available to you to resolve noise disputes and where possible will assist in resolving the matter. On receipt of a written noise complaint, the managing agent should issue a letter to the offending resident and/or the owner notifying them of the disturbance caused and requesting that they desist from causing any further disturbances. In most cases this form of notification resolves the issue and no further action is necessary.

If the noise disturbance continues, what can you do next?

The IPFMA recommend that you take a stepped approach as follows;

- Keep records
- Build a relationship with your neighbour
- Talk to your neighbour about the problem
- Explain the impact on you and/or on your family
- Contact your Local Authority or the Environmental Protection Agency
- Take legal action yourself

Keeping Records of Noise Disturbance

Keep a detailed record of the nuisance as it happens (date, time, type, offending unit). This may be needed to support any complaint if you proceed to court.

Approaching your Neighbours

Before you approach your neighbour it is important to assess the risk to your personal safety and property. If you feel frightened or intimidated or are worried that they may respond in an aggressive manner, then approaching them to complain may not be the best option for you; you may wish to consider contacting the Garda Síochána in these circumstances.

If you do plan to approach your neighbour, wait until a suitable time and prepare what you are going to say and keep calm. Most problems can be solved amicably without a need for further action. You may feel anxious about approaching your neighbour but remember that they may be genuinely unaware that they are the source of a problem. When approached, often they will be embarrassed about the nuisance they have been causing and will be more considerate in future. It is important to do this as early as possible before the problem worsens.

Contacting your Local Authority/Environmental Protection Agency

The Environmental Protection Agency Act 1992 (Noise) Regulations, 1994 (S.I. No. 179 of 1994) provide redress in the case of common types of noise problems. A guide to noise regulations is available to download on www.enfo.ie.

Problems arising from barking dogs are covered under the Control of Dogs Acts 1986 & 1992. A copy of the form used for complaints to the Courts about noise from dogs is available from your local authority.

You may wish to consider contacting your local authority or the EPA to ascertain whether it is in a position to take action. Any individual person, or a local authority, may complain to a District Court seeking an Order to deal with the noise nuisance.

Taking Legal Action Yourself

The regulations under The Environmental Protection Agency Act 1992 (Noise) Regulations, 1994 are designed to allow straightforward access to the Courts by individuals concerned about excessive noise. The District Court will provide you with the form to be used for making the complaint. It is important that you use the actual form provided by the court and that you complete it accurately and fully. You must attend Court at the arranged time and present your complaint. It is also generally advisable to have a record of the times and dates when the noise nuisance occurred. The District Court charges a nominal fee for processing the action. The task of the District Court is to hear both sides of the case. Where it finds in your favour, it can order the person or body making the noise to reduce it to a specified level, to limit it to specified times, or to cease altogether.

Can the Private Residential Tenancies Board (PRTB) help?

There is provision in the Residential Tenancies Act 2004 for third parties who are adversely affected by a failure on the part of a landlord to enforce tenant obligations to refer a complaint to the PRTB. If an alternative legal remedy, such as the remedy provided for under the Noise Regulations is being pursued then the PRTB cannot intervene. In accordance with the Act, an application can only be made by the affected individual.

A copy of the Dispute Application form is available on www.prtb.ie and there is a €25 application fee. The applicant should enclose relevant documentary evidence in support of their case e.g. log of events, photographs, witness statements or Gardai reports (where applicable). The applicant must also submit evidence that they informed the landlord of the alleged breach of the tenants' obligations.

Can the Multi-Unit Development Act 2011 (MUD ACT 2011) help?

The Owners Management Company (OMC) can adopt "House Rules" under Section 23 of the MUD Act 2011 that, once properly constituted, can be enforced on Owners and Residents.

The OMC can recover reasonable costs incurred in remedying house rule breaches. An OMC may in the event of serious breaches take a Circuit Court Action under Section 24 of the Multi Unit Developments Act 2011.

DISCLAIMER

The IPFMA has made all reasonable efforts to ensure that the contents of this guide are correct. However, we cannot accept any liability for any error or omission. You should not rely on the guide in deciding whether to take a particular course of action or not. In that event, you should take the appropriate professional advice.