

From the Ministries

MALTA IN COURT FOR NOT PRODUCING NOISE MAPS

The European Commission has said that it is referring Malta to the European Court of Justice for failing to bring EU environmental legislation into force. Under EU law, strategic noise maps had to be drawn up by June 2007. Malta does not yet have ambient noise maps at a national level, despite several letters from the Commission issued under ongoing infringement proceedings. At the recommendation of Environment Commissioner Janez Potoc̃nik, the Commission is referring the case to the Court of Justice. "The Commission is referring Malta to the EU's Court of Justice for its failure to establish ambient noise maps and make available them to the public," the Commission said in a statement. "These

strategic noise maps are meant to help assess the number of citizens exposed to noise and guide Member State actions towards reduced noise exposure where deemed necessary. Under EU law, Member States are also required to send information from these strategic noise maps to the Commission." The proceedings were launched a year ago, after Malta failed to prepare strategic noise maps within the prescribed timeframe. A letter of formal notice was issued, followed by a reasoned opinion in March 2010 and an additional reasoned opinion in June 2010. The Commission said it understands that Malta is now taking steps to prepare the maps in question, but the significant delays involved had still led it to refer this case to the Court of Justice of the European Union.

MORE RESEARCH NEEDED

"The understanding of noise as a form of pollution, and the response to it, is about 20 years behind where we are with air pollution, where we started to get strict controls in the 1980s and 90s," Dr. Rokho Kim, a specialist at the World

Health Organization's European office on the health effects of noise, said. "It's only in the past decade or two that we've begun to get the scientific evidence that shows that the impact of noise on public health can be as severe as that of air pollution."

CALIFORNIA'S BIKE ANTI- NOISE BILL

California's new biker law now makes it a state crime to operate any motorcycle that was built from the 2013 model year on, that doesn't carry a federal Environmental Protection Agency exhaust system label (this includes aftermarket pipes). The violation is considered a secondary offense, meaning a police officer can't stop a motorcyclist solely because he believes the motorcyclist is breaking the sound law, but riders pulled over for other violations could also be cited for noisy

pipes. First-time offenders could expect a fine of \$50 to \$100, but that would likely mean a fix-it ticket that could be dismissed once corrected. After that though, fines would go up progressively, to \$100 - \$250. SB 435 is called the Anti-Tampering Act because it mandates that motorcycles maintain federally-required emissions equipment on both original and aftermarket exhaust systems, including the EPA stamp that certifies compliance (that the exhaust is clean burning and doesn't exceed 80 decibels). The bill was opposed by the Motorcycle Industry Council and the American

Motorcyclist Association: both groups support the J-2825 standard instead. J-2825 is a stationary sound test developed by the Society of Automotive Engineers, and it specifies the type of sound meter to be used, though there is

controversy on that front, too: along with cost and bulk, the equipment requires intensive and specific training, as well as constant calibration, to be properly used.

CANADIAN MUNICIPALITIES DISCUSSING LFN BYLAW

Representatives from 12 Canadian municipalities have met to discuss whether or not they wanted to support a test bylaw that would regulate low frequency noise (LFN). And, after hearing Huron East solicitor Greg Stewart explain how such a bylaw would be created and its anticipated cost of close to \$60,000, municipalities from Norwich to Melancthon to Saugeen Shores returned to their councils in hopes of bringing an answer back to Huron East by the end of December. “We couldn’t get the full councils here so this was an information session to see if they were interested. We’ll be waiting to hear if they’re willing to join the test case. I know some people will think we’re not moving fast enough and it’s not that we’re scared – we just have to do it right,” said Huron East Mayor Joe Seili after the meeting. Stewart told the municipalities, that Huron East is proposing a test bylaw to regulate low frequency noise after receiving concerns from community members about the health problems caused by industrial

wind turbines. “Low frequency noise is a bit of an unknown with studies done mostly in Europe and council felt that the unexplained elements needed to be addressed. They decided to look at the possibility of a bylaw but to have it tested by a court before they put it into effect,” said Stewart. Stewart explained that since the province’s Green Energy Act has removed municipality’s authority under planning legislation about the siting of wind turbines, they are left with the Municipal Act’s section allowing municipalities to regulate public nuisances, including noise and vibrations to protect their residents’ health, safety and wellbeing. “The words and opinion of council are important because if the bylaw is arrived at in good faith, it’s not reviewable by a court,” he said. Stewart warned that the bylaw cannot target wind turbines specifically but would need to include any industrial “noise emitter” in the municipality. “We can’t thwart the actions of a particular group or the court will strike it down. It has to be across the board,” he said.

IS A LOCAL ANTI-NOISY VEHICLE LAW PRACTICABLE?

About 30 per cent of the 2,000 noise complaints received by Calgary Council each year are about loud vehicles. City council sidelined in July a proposal to toughen the bylaws and target excessive noise caused by vehicles. Instead, council opted for more study on the issue before setting out new rules or souped-up penalties and asked for a report outlining the definition of excessive vehicle noise and the appropriate penalties; available noise

enforcement options including the use of technology; and a cost estimate for the technology and any constraints in provincial and federal legislation. Ald. John Mar had spearheaded the initiative supported by eight other aldermen which seeks to put a maximum decibel level into the bylaw. He said most Calgarians have no idea how loud their vehicles are on the road. Mar added the loudest vehicles or motorcycles legally imported or made in Canada run about 90 decibels. To give some leeway, 96 decibels was decided as a reasonable

limit. “No imported or manufactured vehicle in this country goes over that output unless you go out and intentionally modify your vehicle,” said March. Rob Leech, owner of Calgary’s Tunerworks Performance questioned how authorities would enforce a 96-decibel limit. “How are they measuring the decibels? Is it with the car on standby or are you revving the motor, or

is the car in motion?” asked Leech, who said he’d most likely go to an open house. Leech noted the decibel system is a knee-jerk reaction from those who don’t understand the automotive industry. He said there would have to be a national policy on vehicles for Calgary to police decibels — otherwise people would be forced to park their cars on the outskirts of the city.

MORE POWERS AGAINST NOISY PARTIES

Santa Fe’s Public Safety Committee on has unanimously approved amending current law to allow police to recoup the costs of repeated visits to noisy, out-of-control gatherings. City Councilor Carmichael Dominguez, the initiative’s sponsor, called it a “tool” for the police department and said it offers a way for officers and neighborhoods to build stronger relationships and work together to reduce crime. Currently, local police, when responding to public nuisance calls, more or less simply deal “with the immediate situation,” Assistant City Attorney Alfred Walker told the committee. “It’s often difficult to, say, shut down party houses”, he said. Under the new law, offenders are issued a warning on the first visit to their home

by police or other emergency responders. The city can seek reimbursement — the cost could range widely — if at least one more offense is committed within a one-year period. If that fine isn’t paid, the city can put a lien on the property. While parties are a major focus, the law can be applied to any gathering of two or more people where there’s excessive noise, vandalism, fighting or anything else that could be deemed a public nuisance. Parties considered responsible can include a landlord, renter, parent or minor. All parties are issued the initial warning and the hope is that someone will take steps to prevent a recurrence, Walker said. If subsequent offenses do occur, police will determine who should pay the fine.