

when 'quiet' does not mean 'quiet'

The House of Lords, the UK's highest judiciary, has given the noise scene a hard knock with its interpretation of a few simple, but important, words in tenancy agreements.

"The tenant's right to quiet enjoyment of the premises" no longer means what most of us in the UK hoped it did!

Case Law dating back over 100 years says that the word "quiet" in tenancy agreements does not mean undisturbed by noise. "When a man is quietly in possession it has nothing to do with noise", say the Judges. The legal meaning of "quietly" is that the landlord will not cause any substantial interference with the tenant's lawful possession, that is, the tenant's ability to use the premises in an ordinary way. We tend to forget that there are a number of meanings for the word 'quiet', only one of which is related to noise. It is instructive to check up in a dictionary.

In the case which led to the complaints of noise, adjacent tenants were living ordinary lives, doing ordinary things, but the woefully deficient sound insulation resulted in their neighbours being all too aware of every activity. As one tenant put it:

"I can hear all their private and most intimate moments of [my neighbours'] lives – conversations, what TV station they are viewing,

when they go to the toilet, when they make love. Every light switched on, every door opened or closed, every pot or pan placed on the cooker, all these I hear".

Such ordinary activities cannot be classed as a nuisance, although they cause tension and distress. "Sorry" say the Judges, "but you have no recourse in law to compel your landlord to improve noise insulation." In fact, when you sign the tenancy agreement you accept the premises in the condition which they were at the time of signing and must endure to consequences. The covenant for quiet enjoyment does not create a future liability for any problems arising from the condition of the premises. This puts one's rented home in a different category from other purchases, which must be fit for the purpose for which they were sold.

There might be a way through the problem in terms of effects on health, which was not considered in the judgement. The question of when does noise make a premises unfit for occupation on grounds of hazard to a tenant's health, and who is then responsible for correcting the problem, remains unresolved. But as this case took over five years to reach its conclusion, we may have to wait a long time for the answer to such a tricky question.

car radios

Savannah police are causing motorists to turn down thumping car stereos since officers started strictly enforcing the city noise ordinance. Officers ticket drivers of cars pulsing with music so loud it can be heard well outside the vehicle. The citations, which run about \$90, are quieting some streets. Savannah has not reached the extreme of New York City where, if you are ticketed for a loud car stereo, the authorities impound the car as evidence.

police powers

While the New South Wales government is not planning to privatise the police force, as had been claimed, transfer of some police responsibilities to other agencies is being considered. Dealing with noise complaints is likely to become the responsibility of local councils, although the police will retain responsibility if issues of anti-social behaviour are involved.