

Why Would You Want To?

7/11/04

THIS ONE IS ABOUT LAW ENFORCEMENT'S RESPONSIBILITY AND PEOPLE'S FEAR/IGNORANCE IN DEALING WITH IT.

Here is the Situation and it is *not* hypothetical.

A kennel opened recently across the street and there is loud disturbing barking at all hours of the day.

Two weeks ago on a Saturday morning I decided to drive over and investigate the racket. My house is on a hill on one side of a four-lane highway and Evergreen Kennel & Grooming is on a mountain on the other side; it is maybe a half a mile away in straight distance. I had noticed that the noise was at its worst on weekend mornings. I thought maybe I would find numerous guard dogs at one of the businesses in that area. The establishment was easy to find because I simply followed the noise.

Up close the yelping was shockingly loud. I looked over the high privacy fence and was horrified to see dozens of dogs in a small backyard-sized lot running around barking. Two young men appeared to be chasing after them and screaming, apparently trying to bring order to the melee.

I drove home and telephoned the number on the sign in front of the business. There was no answer so I left a message politely inquiring about the situation. A short while later "Simon" called me back and we had a cordial talk; he said "We have 46 dogs, what do you expect us to do?" I was told the owner "Anik" was out of town and she would call me in a few days when she returned.

I never heard from her. Throughout the next week it rained every day and the kennel was relatively quiet. As soon as the weather cleared the noise escalated. I eventually wrote a letter and have not received a reply to that either.

So I contacted the Jefferson County Sheriff's Office. Their reply was so abhorrent I was forced to ask for an investigation under the auspices of obstruction of justice.

What is her position? Is it that she is going to try and defend disrupting an entire community? It just doesn't make sense. Or, is it conceivable, that she never even considered the potential for, and the ramifications of, causing such a disturbance?

And Deputy O'Leary, what is he trying to accomplish in that he would so blatantly try and intimidate me into acquiescing *and* keeping quiet? At one point, standing on my front porch and when I shifted my weight or took a step one way or another, he said "Please don't step into me." On another occasion he warned me about "making threats." When I asked several times what he meant by that, his only responses were "One letter is O.K." and "You do have freedom of speech." It was thuggery.

Then he authoritatively said, "It's a civil matter, and if you want to take care of it that way, you can." Maybe it is just inexperience—he looked and acted young and was wearing some very bright green colored sunglasses. What he noticeably *didn't* say was that someone would continue to look into The Situation or that there are numerous avenues to pursue it. He didn't even imply that it was disruptive and wrong. After he had just come from the kennel—and he certainly *must have made some effort* to quiet it down—we stood on my front porch and he said something about the fact that no barking was occurring at that moment. He asked: "You can hear it all the way over here?" and when I replied "Inside my house," he looked at me in what I inferred to be a suggestion that I was lying or exaggerating. All *anyone* has to do is drive by the kennel just about any time, but *always* in the mornings, and they can hear it for themselves.

One avenue is civil action. But I am little concerned with others' distinctions between criminal and civil law. I prefer to think of The Situation as "public" rather than "private."

That actually brings me to an aspect of The Situation I was hoping to avoid: How is the outcome affected by my control over the marketing mix? I was hoping to avoid it until Deputy O'Leary double-dared me...

Sgt. Bud Bumgarner in "internal affairs" very, very oddly wouldn't give me the case number, refused to provide his e-mail address, and failed to return three calls. He asked me "How did you step toward him?" and "What threats did you make?" He told me I could mail a letter via the U.S. Postal Service to Sheriff Ted Mink.

Everyone has the right to peace and privacy, particularly on their own property. It doesn't get much more basic than that.

I am confused by Jefferson County law enforcement. The statutes I could find all had exemptions specifically for animal noise or kennels and I could find no laws relating to disturbing the peace. The fact that it is so specifically excluded in at least two places leads me to think it is covered or enforced elsewhere. For instance, the County specifically prohibits nuisance barking in *noncommercial* circumstances (although they do not/will not enforce it), so it would seem unlikely they would allow it under much worse, much louder, and much more continuous commercial situations.

I have now spoken with close to a dozen employees at the Sheriff's Office and have yet to receive an explanation. Deputy O'Leary, for instance, prior to investigating The Situation in any manner whatsoever, informed me that because it is a licensed kennel (which I told *him*), he would do nothing. And the sergeant in "internal affairs," I had to correct *him* on statutes pertaining to animal control. Others, also without any form of investigation or seemingly interest, blamed it on "zoning." The details can be particularly exasperating.

Is it because such "disorderly conduct" laws are crystal clear under state statutes? I don't know. It is minutia and a level of specific expertise that I will defer to others.

Besides, I am admittedly only semi-qualified to speak legally. Maybe even that is a stretch. But I did work at FBI headquarters for three years and I have completed coursework in law. I chose not to attend law school many years ago. It would have been great if at the time I had realized that I just have no stomach for arguing and becoming adversarial over all the details. I do know a little about some of the concepts, such as contracts and the Fifth Amendment, and I know that our laws stem from them.

I prefer to think about it in terms of this bigger picture, the ethics and the concepts. When something is so blatantly wrong—like disturbing an entire neighborhood at 7:00 AM on Sunday mornings, in an ongoing, premeditated, *profit-making* manner—there are always ways to fight it.

If I know a little about law, I know a lot about marketing. I am much more interested in the business ethics of the situation, or you could say, the interaction between business success and prosperity, on the one hand, and ethics and legal responsibility on the other. Will the powers that be do something about it legally? Or, completely aside from that, what I would really like to know is, will the business flourish? We'll see what happens on both fronts.