

NEIGHBOR COMPLAINTS AND CITY HALL

WHAT TO DO!

by Jerry Jennings

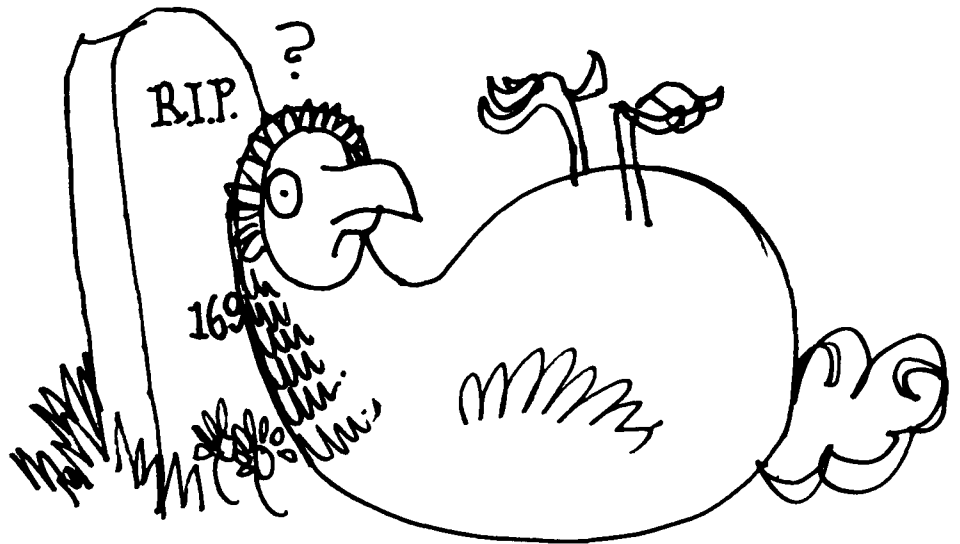
A growing number of AFA members have been or are being confronted with requests from city or county government zoning commissions, building and safety, or animal control officers, to get rid of their birds and aviaries. The problem seems to be most acute in California, although it is a common phenomenon in urban centers across the land.

Some AFA members have simply complied with these local government directives and divested themselves of their birds — never to be heard from again. Others, however, have called upon AFA for help.

All of the city/county problems encountered by breeders are nearly identical in nature. The bird breeder receives written notice from the appropriate local government agency that he is in violation of a particular ordinance and has so many days (ranging between 10 and 30) to comply. He is further warned that failure to comply will result in legal action.

How did all this happen? First of all, a neighbor has been offended by the noise of the birds, possible odors, unsightly aviaries, aviaries built up against his house, or perhaps the neighbor feels it is his duty to inform the city/county that laws concerning "wild animals" may be being violated.

The laws regarding animal keeping vary widely from one locale to the next. However, they all share the common purpose of providing a mechanism for the



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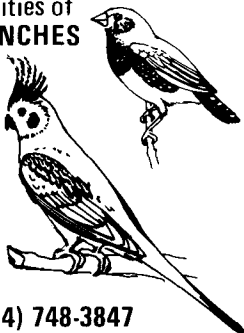
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legal abatement of a public nuisance. These so-called nuisance abatement laws consequently are complaint enforced. That is to say, no complaint, no enforcement. The local government is not in the business of searching out aviculturists door to door.

Logically, the way to overcome this threat is through prevention. Before aviaries are constructed, several steps may be taken to minimize undesirable repercussions. First, visit your neighbors on both sides and the nearest three behind you. Find out how they feel about the idea of birds in aviaries in your backyard. If you are friends with all your neighbors, you are in good shape. One AFA member in Yorba Linda, Calif. has been so effective in his good neighbor policy that he has everyone for two or more houses on either side and some across the street raising birds — a positive example of good community relations.

Second, inquire about local city/county regulations from the agencies for zoning, building and safety, animal control, etc. Find out what the laws say concerning types of birds, numbers allowed, building permits (if required for portable structures), minimum set-back distances for animal pens from rear and side yard fences or neighbor dwellings. You may be surprised to learn your projected aviaries are perfectly legal in your neighborhood.

In situations where certain activities are restricted or prohibited, you may be exempted under a "grandfather clause", which exempts anyone from doing whatever it is that is now prohibited if that person was either living at his present address or was doing that which is prohibited before the law was passed. One AFA member in Los Angeles County was asked to get rid of his birds, but discovered the law, passed several years earlier, exempted him under a grandfather clause. He had lived at his present address for many years prior to the enactment of the ordinance.

Third, once you have consulted with your neighbors and researched your rights, you will decide whether or not to build aviaries and where to put them. If the neighbors approve, but the city doesn't, then you will have to take extra care to avoid offending your neighbors in the future. Appropriate steps will include locating aviaries away from neighbor residences, constructing aesthetically pleasing structures, stocking them with birds that do not make noise, and keeping them spotless to prevent odors and an unsightly appearance. Incidentally, an over-crowded aviary requires

more effort to clean and may cause some to wonder if the birds are being cared for humanely. No one wants, and aviculture does not need, complaints of inhumane treatment.

Most, if not all, finches, are quiet as are grass parakeets, broad tailed parakeets — Rosellas, Red-rumps, etc., and many gamebirds. On the other hand, Conures, Amazons, Macaws, Budgies in large flocks, Geese and Peafowl can be loud — neighbors will know they are there, so common sense is the rule.

If your aviary is already established and a complaint is received, you can do the following:

First, visit your neighbors to try to identify the complainant — the city will not tell you. Be as friendly as possible. The neighbor is already unhappy, so don't anger him further. A cooperative attitude will go a long way toward encouraging the neighbor to withdraw his complaint.

Second, know where you stand regarding the law. Don't take the city's word for it. Obtain copies of the entire zoning code, animal regulations, etc. — not summaries printed in pamphlet form.

Check for availability of variances; a variance if granted can give you special consideration. Also, check for grandfather clauses and find out when the law was passed.

Third, try to enlist the support of your neighbors. If they like your birds they will probably sign a petition to that effect or write letters on your behalf to the appropriate city/county agency. This approach was effective in one instance in which AFA became involved.

Fourth, if there are enough breeders in your area, you might approach the City Council or Board of Supervisors requesting they modify existing ordinances in favor of breeders.

This type of activity is quite time consuming, but it does work. A group of aviculturists in Contra Costa County, Calif. have made considerable headway in getting the existing law modified to permit aviaries (see story in August Watchbird).

Fifth, if all else seems to be failing, consult an attorney.

If all the above steps are taken, and they may be taken simultaneously to avoid wasting time, everything that can be done will be done. The chances of success are better than you think.

AFA would like to be informed if any member is having a local government problems, so that we may offer assistance. We are able to provide support in twenty five states. We can only help if WE ARE INFORMED! •