

Owners must surgically 'debark' loud dogs, court rules

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The Oregon Court of Appeals ruled Wednesday that a southern Oregon couple must quiet their incessantly barking dogs by sending them to the vet to have their voices surgically squelched.

The Appeals Court ruled “debarking” surgery is an appropriate solution to a noisy and relentless problem that neighbors living next to the dogs have had to endure for more than a decade on their rural property outside Grants Pass.

Debarking operations, also known as devocalization, are highly controversial. Groups such as the Oregon Humane Society and American Humane have spoken out against them. Six states have outlawed the procedure under certain circumstances, according to the American Veterinary Medical Association.

The surgery involves cutting the vocal cords. Opponents say removing a dog or cat's prime means of communication is cruel and unnecessary. Proponents say if done correctly, it can save problematic animals from being euthanized and still allow them to express themselves with a soft, raspy bark or muffled squeak.

But it's rare for courts in Oregon to order the procedure done, in part because barking-dog disputes usually are resolved long before cases get that far.

“We are just shocked,” said David Lytle, a spokesman for the Oregon Humane Society. Lytle said his organization pushed for a bill to outlaw debarking surgeries in Oregon, but it failed a few years ago.

The lawsuit began as a last resort, according to the neighbors who filed it.

Debra and Dale Krein said they could no longer take the barking of the six or more Tibetan and Pyrenean Mastiffs owned by the couple who lived next door for almost 20 years.

The barking started in 2002, but the Kreins didn't sue Karen Szewc and John Updegraff until 10 years later, according to a court summary of the case. Like the Kreins, Szewc and Updegraff are married.

The Kreins contended the barking started as early as 5 a.m. and continued for hours on end after Szewc and Updegraff left the house for the day.

The dogs routinely roused the Kreins from sleep, deterred relatives from visiting their property and forced them to turn up the volume of their TV to watch shows, they said. Their children dreaded coming home from school.

The Kreins made audio recordings to prove their case.

After a four-day trial in Jackson County Circuit Court in April 2015, [a jury ruled](#) that Szewc and Updegraff had to pay the Kreins \$238,000.

The Kreins at the time also argued that while the money compensated them for several years of disruption, it didn't stop the problem.

Judge Timothy Gerking agreed and ordered that the Mastiffs be debarked, given that the owners hadn't stopped the barking by other means, including using citronella-spray and shock collars or erecting a visual barrier between the dogs and the neighbors' property.

The Appeals Court upheld the \$238,000 verdict and Gerking's ruling, reasoning that the Kreins shouldn't have to file lawsuit after lawsuit to recover compensation as the problem continues. In his written opinion, Appeals Judge Joel DeVore likened that to a "judicial merry-go-round."

Reached by phone, Debra Krein declined comment. The Kreins' Medford attorney, Michael Franell, couldn't be reached for comment.

Szewc told The Oregonian/OregonLive that efforts to silence her dogs have threatened her ability to run her farm.

"The dogs are my employees," she said. "We do not have the dogs to harass the neighbors. We have the dogs to protect our sheep."

The dogs bark, she said, when they sense predators, such as bears and cougars. She said agricultural properties generate farm noise -- something her neighbors haven't come to accept.

"The next line of defense is a gun. I don't need to use a gun, if I can protect my sheep with dogs," Szewc said. "This is a passive way of protecting livestock."

Szewc said she and her husband currently have six dogs, but the number has fluctuated over the years.

In 2005, Jackson County cited Szewc for allowing two of her dogs to become a public nuisance with frequent and prolonged barking. After reviewing the case, county hearings officer Donald Rubenstein in 2006 ordered Szewc to pay a \$400 fine and have the dogs debarked or moved off of her land.

In making his decision, Rubenstein found that Szewc's farm activities then were so small and unprofitable that they didn't fall under farm-use laws that might have protected the sound of the barking dogs.

Szewc and Updegraff have strongly disputed that. Szewc said the farm made \$26,000 last year and it has supplemented their income.

Court papers describe the couple's land as a 3.4-acre parcel, populated by sheep, goats and chickens.

Szewc said the couple did debark the dogs, but it had disastrous effects in 2010. A cougar ran off with six lambs in a single week, she said.

"That's \$3,000 of income," Szewc said.

Now, Szewc said, she doesn't know what she'll do -- whether she'll try to appeal the decision or accept it. Only one of the couple's six dogs have been debarked.

The ruling was made by a three-judge panel of the Appeals Court: Joel DeVore, Chris Garrett and Bronson James.

-- Aimee Green