

April 22, 2024

Dear Yaupon by Windsor Management:

Re: Noise Complaint

I am reaching out formally to request immediate assistance and actions taken on the tenants living at 7870 US 290 W Apt 7202, Austin Texas, 78736. The tenants in APT 7202 have infringed on my quiet enjoyment, and a private nuisance cause of action can be filed against the tenants on Apt 7202.

I first contacted Yaupon Management, via email on January 27, 2024, to have the tenants in 7202 adhere to the quiet hour policies. Only one leasing violation has been given to the tenants in 7202. Despite this, the tenants in 7202 have given no consideration and effort to abide by such rules. The tenants in 7202 continue to slam their doors and toilet lids, stomp, and yell during quiet hours every day, apart from April 12, 2024. Various in-person communications and emails expressing my frustrations towards the tenants in 7202 with Yaupon Management have not resulted in additional leasing violations or any meaningful changes to the behavior of the tenants in 7202.

My physical and mental health has taken a huge downfall, as I am averaging less than 2 hours of sleep each night. I have already given my utmost attempt to work around this issue. I am taking melatonin and 20mg of Benadryl each night, and this is in addition to the white noise machine I have. Despite these efforts, it has not been enough to overcome the noises from 7202.

The amount of pain and suffering that I have experienced due to the tenants in 7202's selfishness is unsurmountable. I have not been able to go to work in person, as a lack of sleep will cause me to become a road hazard behind the wheel. Every night, I must live in fear or in a state of anxiety as I anticipate the next noise event, they will make during quiet hours to disturb my sleep. It is nearly impossible to fall asleep under these conditions. Imagine if your neighbors did this to you every single night. You should not be responsible for having to move out for their actions, but rather they should face consequences.

We have community rules and everyone who lives in the community has signed and agreed to the same terms of conditions. Under the Yaupon by Windsor Lease Agreement, Section II, titled **Terms and Conditions of Lease – Texas**, subsection 7, titled, **USE OF APARTMENT; YOUR CONDUCT**, states that *“You agree not to disrupt the quiet enjoyment of others or to disturb, interfere with or threaten the rights, comfort, health, safety or convenience of others (including our agents and employees) and you are responsible for the conduct of Permitted Occupants, guests, animals and anyone coming into the Community at your request or on your behalf.”* The tenant in 7202 is already in violation of Section II, subsection 7, by constantly interfering and threatening my comfort and health.

Additionally, in the same section, subsection 36, titled **NOISE, DISTURBANCE**, states that *“You agree to control the volume of your voice, of televisions, video and audio equipment and musical instruments so that the volume does not interfere with other residents' quiet enjoyment of their apartments or Common Areas. Large parties are strictly prohibited. If your dog barks or makes other noise so as to interfere with other residents' quiet enjoyment, it is a default under*

the Lease and grounds for eviction. Quiet hours are from 11:00 P.M. to 8:00 A.M.” The tenant in 7202 constantly makes noises that are beyond reasonable during the day; however, continues during quiet hours. There are many occurrences that the tenant in 7202 has done such violations at 1 to 3 AM and 4 to 6 AM.

Rules are in place to ensure that everyone can live in a community that is peaceful. Violating such rules has consequences. If we do not enforce such rules and let the violator continue to violate without consequences, the community might as well not have rules to begin with.

Before the current tenant in 7202 moved in, I enjoyed living here, as it was quiet and convenient in many ways, and I would like to continue living here. I never had such issues with the previous tenant in 7202. I only re-signed my lease due to the living conditions before this new tenant moved in. Unfortunately, my view of this community has soured after the disrespect and selfishness of the tenant in 7202 and the lack of adequate actions from Yaupon Management. If such actions are not taken against 7202, I may need to look for a new place.

Under Texas Property Code Title 8, Section 92.056, also written in the leasing agreement, I am making this request to Yaupon Management to take immediate action or provide amicable solutions.

Additionally, having fees assessed just trying to find a room that satisfies the quiet enjoyment is not a suitable resolution. I do not willfully want to transfer rooms; it is the tenant in 7202 that is driving me into this situation. I should be able to walk through a room and withdraw from a proposed room without penalty if the room has issues. It also will cost the community and me more money and time to have to continuously switch rooms if such a room is not suitable. If such action is not taken in a reasonable timeframe, a decision to terminate the lease and move out of the community may be taken. This decision can be made without a two-month notice necessary as explained in subsection (f), point 1 of Section 92.056 in the Texas Property Code Title 8, if and only if subsections (b), (c), and (d) are satisfied. Furthermore, I can pursue damages for deprivation, moving expenses, and a prorated refund for my rent as I could not get the full value of my rental bargain due to the offending behavior.

Again, I want to resolve and settle this peacefully with Yaupon Management and continue to live in the community. Ideally, no one should need to move, but we need to find the root cause of the issue and resolve it. The tenants in 7202 should admit what they are doing wrong and fix their behavior. Right now, we are just skipping the root cause and trying to band-aid a fix for it. I am utmost certain that this issue will reappear again with another tenant if they move into 7102, and this whole mess will be cyclical. I welcome Yaupon Management to come to my room and observe for a week to understand the pain and frustration I am experiencing, as the videos provided in the email chain do not reflect the actual conditions well. The in-person experience is much worse than what the video suggests.

Sincerely,
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