

Dear Board of Editors,

As you are aware, a number of Del Mar residents have according to various media reports and acknowledgements by city staff, complained about the astounding noise associated with the Kaaboo concert. Some of the complaining residents were more than 2 miles or more, from the fairgrounds and still experienced the vibrations and sound emanating from the fairgrounds. In our case, we live approximately 1.5 miles from the fairgrounds and the noise, at least on Sunday evening was at the low end of the scale sufficient to vibrate the walls.

I would like to suggest to the editors that the issues associated with the astounding concert noise is part of a much larger problem, which deserves extended treatment by the Sand Piper. Basically, the problem is an ostensive one where the fairgrounds administration has felt entitled in past years to pursue policies that are in some cases contra to state law, and in other cases ignore the ordinances of surrounding communities even though the policies which the fairground has in various cases adopted have an immediate and deleterious effect on surrounding communities. Historically it seems that the fairgrounds has taken a position because it is an independent state agency, free to ignore ordinances enacted by adjacent principalities. Thus in the case of the abuse of environmental protection laws, the agricultural districts of administration has tried to evade state law though ultimately it is acceded to court mandates which invalidated various fairground violations. I only mentioned this as background for the broader problem of the questionable position of the agricultural district to ignore the ordinances of adjacent municipalities. Without having done any extensive legal research on this subject, I am inclined to believe that the position of the agricultural district and to some extent that of the administration of the city of Del Mar that city ordinances can be totally ignored is of questionable legal validity.

There are I believe instances where the activities that emanate from the fairgrounds have a direct and immediate impact on Del Mar which the agricultural district is not free to ignore. Presumably, the fairgrounds is free to adopt any policy it wants that is not contra to state law such as land use laws of the agricultural districts land. However, where the immediate effect of the actions of the agricultural district and the events that it sponsors present a danger or significant nuisance to the adjacent community an argument can and I think should be made that the agricultural district is precluded from taking actions that have a deleterious spill-over effect. For instance, suppose the fairgrounds were to sponsor an event that involves the shooting of rockets into the air, some of which can either because of intent or negligence land in territory not controlled by the Agricultural District, it seems very unlikely that such spill over effect could not be enjoined by adjacent municipalities. By analogy where fairgrounds events result in extraordinary noise in adjacent communities, it could be argued that the agricultural district is not free of legal constraints adopted by adjacent municipalities to curb such nuisances or intrusions into the good order of the community.

In recent days, I have communicated with both the Del Mar city manager and his assistant Ms. Kristen Crane. The issues that I raise are set out in the attached letters. As you will note, the Del Mar city administration does not appear to focus on what appears to be a court ruling that limits the right of the agricultural districts to sponsor events that exceed certain prescribed noise levels (the exact decimal levels permitted are set out in an announcement on the web page of the agricultural district reporting on a judicial order). Ostensibly, that order would give the city standing to enforce the noise levels associated with agricultural district events excluding the annual fair. For your information, I enclose a copy of that webpage.

Finally, may I suggest that in the light of the court-mandated noise level limits, that it would make some sense for the city of Del Mar to establish its own noise monitoring system since reliance on the agricultural district to monitor its own events is of questionable value.

Sincerely,

Ralph Reisner, Surf View Court
Professor of Law, emeritus