

OUR LOCAL CORRESPONDENTS

## THE NOISES

*What was going on in the apartment upstairs?*

BY NICK PAUMGARTEN



The Walters first began hearing the noises three years ago, at around eleven in the evening, as they were getting ready for bed. "Thuds, bangs," Richard Walter recalled recently. "Like someone whacking the floor with a two-by-four." This was joined, in the following nights, by another sound: "A buzzing. Like a loud bee noise. Zzzzzz. It was more or less constant, sometimes until two or three in the morning." The noises seemed to be coming from the apartment directly overhead and were as hard to account for as they were to sleep through. Night after night, the Walters lay awake, wondering and seething.

Richard Walter, who is eighty-one, and his wife, Linda, who is a little youn-

ger than that (they've been married for thirty-five years), sleep in separate bedrooms in apartment 6D at 1016 Fifth Avenue, an elegant limestone-and-brick prewar building that faces the Metropolitan Museum of Art, along one of the most expensive strips of real estate in New York. In broker's parlance, the apartment is a classic six, with a living room, a dining room, two bedrooms, and what's known as a maid's room—a small bedroom off the kitchen. If you wanted to buy the place, you would probably have to come up with two or three million dollars. You would also have to be approved by the board, because 1016 Fifth is a coöperative, or co-op, which means, among other things, that the peo-

ple who live in it, or their representatives on the board of directors, can reject a buyer for almost any reason, or for no reason at all. The Walters breezed through the process five years ago. Richard, who grew up on Long Island and served as a lieutenant in the Navy during the Second World War, was on the verge of retiring from his business of importing craft items (lace from Scotland, appliques from Taiwan), and he had some money, which is what co-op boards like most.

It says something about neighborliness in the more rarefied Zip Codes that the Walters knew next to nothing about whoever occupied the apartment upstairs. Happily, doormen tend not to be nearly as discreet as their livery suggests, and so in the course of elevator rides and lobby chats the Walters were able to glean a few things. The owner of the apartment was a woman named Rise Dimson, who had been in the building since 1994. She was divorced, and she owned a home-furnishings boutique (porcelain *sake* sets, live finches) on East Sixty-seventh Street. She apparently had a boyfriend, who had recently moved in with her. He was an artist. There were reports of renovations, of a bedroom being converted into a studio. "I'm the kind of man who hears the word 'artist' and thinks brushes and paint," Richard Walter said. "I pictured Picasso up there, or Jackson Pollock." Then Linda got a tip from a source in a neighbor's book club that the artist was in fact a jeweller. The Walters began to imagine noisy, alchemical procedures involving hammers and chisels and molten gold. "Mr. Walter," a doorman told Richard, "your days of quiet are over."

Quiet, of course, is relative, especially in New York. The covenant of quiet enjoyment—the principle that allows apartment dwellers, stacked like trays of honeybees, to expect a bit of peace—can be an exasperating abstraction. Anyone who has spent some years living in the city has a noise story to tell. Either the neighbor is noisy or the neighbor is crazy. Bedsprings, headboards, blenders, bocce balls, laugh tracks, Marv Albert, Mozart. Some people can live with it and some cannot, and often those who cannot are hard to live with, too. David Pullman, a financier who helped popularize what are known as Bowie bonds, spent years complaining, to his neighbors and, eventually,

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the courts, about a couple making noise in the apartment above his in a Central Park West co-op. He claimed that they were running a bookbinding business out of their home. They claimed that he was a quarrelsome pest. The verdict, reached by the other residents one evening at a meeting in a basement laundry room: pest. And so the co-op board kicked Pullman out of the building. The response may have been novel, but the sentiment was not. According to a 1946 report in the *Times*, a Miss Julia Koenigsberg, of East Sixth Street, had a brother who had been complaining to her neighbor about noise. Eventually, Miss Koenigsberg was stabbed to death with a kitchen knife. The neighbor, Mrs. Julia Koukanek, was arrested and charged with the murder. Miss Koenigsberg, the article noted, had also been "beaten on the head with a bunch of keys."

Still, people have a right to what passes for quiet. Co-ops, like prep-school dormitories, have house rules: at 1016 Fifth, children are not allowed in the service elevator, servants are not allowed in the passenger elevator, and "no lessee shall make or permit any disturbing noises." As far as the Walters were concerned, doing whatever it was the boyfriend-jeweller was doing, ten feet above their beds, seemed to violate not only the rules but also their conviction that a building as expensive and well appointed as theirs—with a grand marble lobby, vault-thick

walls and floors, and nineteen employees, each eligible for a Christmas envelope full of twenty-dollar bills—ought to be, at the very least, a place where one could expect a good night's sleep.

"I live at 1016 Fifth Avenue," Linda Walter told me, "and I have a *stonecutter* over my head."

When I went to see the Walters on a muggy night last summer, all was quiet, except for the whirr of their air-conditioners and the occasional moan of a bus headed down Fifth Avenue. In the Walters' relatively short time there, the apartment, which was decorated with old globes and paintings of nineteenth-century sailing ships, had achieved the genteel bedrattle familiar to apartment hunters and veterans of doctors' waiting rooms—worn carpets, old photographs of children with bowl haircuts. By the front door, there was an umbrella stand containing wooden walking sticks.

In the living room, Richard and Linda recited their grievances. Richard is sturdily built, and the bemused expression that normally commands the muscles of his face—like that of someone trying to smile through a scolding—can switch quickly to irritation. Linda, who was wearing a long skirt and sandals, has mid-length blond hair and a worried look about her eyes.

"He's working twelve, one, two, three o'clock in the morning," Richard said. "He works all night and sleeps all day."

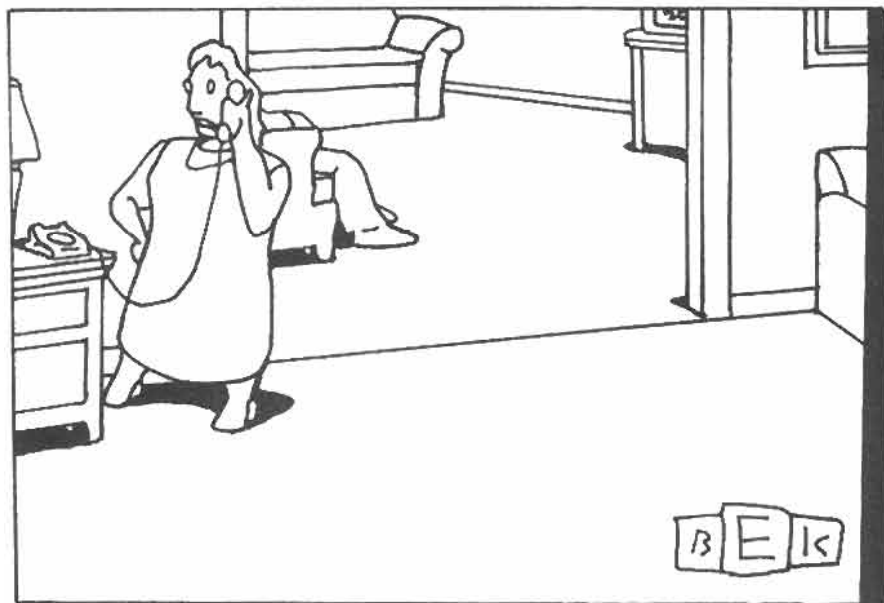
"He's a strange man," Linda said, ominously.

Richard had a page of notes, to which he referred often, as though the events he was describing weren't something he'd spoken about many times before. He had other grievances with the co-op board members. Several of them were fighting the expansion of the Metropolitan Museum of Art, even though the Park views of only a few people—including the board president—would be affected. Also, there had been a flood in the basement recently, with water rising into the storage bins. The board, he was saying, didn't seem to have its priorities straight.

As for the noises, the first person the Walters complained to, reasonably enough, was Rise Dimson. Richard called her during the day, at her boutique. The exchange, tempered by daylight, was cordial. She apologized for the disturbance and said that she'd take care of the noises, whatever they were.

After a few more nights, the Walters rode the elevator to the basement and tracked down the superintendent, Declan Hennessy. "You look tired, Mrs. Walter," the super said. They described the noises and begged him to do something, but, Richard Walter recalls, "he just looked at us." Following several more requests from the Walters, Hennessy agreed to perform a drop test. The super stood in 6D, and another employee went up to 7D and dropped objects on the floor. It was determined that extra carpeting might help. Nonetheless, Hennessy suggested to the Walters that what they were hearing might be the clanking of the radiators.

For the doormen on the graveyard shift, the calls from 6D kept coming, sometimes several in a night. (Once when the Walters rang down to complain, Dimson and her boyfriend weren't home.) Before long, the Walters were summoning the police; cops showed up at Dimson's door half a dozen times. One evening, Linda, in tears, went to the station house on East Sixty-seventh Street, where an officer told her, "You gotta get a lawyer." Eventually, Dimson retaliated: the Walters were banging on the ceiling with a broomstick (on other occasions, they had cranked loud marching music), so she called the cops. Dimson also paid a visit of her own to the police station, in an attempt to get a restraining order against



*"He spends all day sitting, so the last thing he wants to do when he comes home is do anything else."*

the Walters. Not possible, she was told.

A virtue of a co-op is that there is a board to mediate such disputes. In December, 2001, the Walters wrote a letter to the president of the board, and then, when nothing was done, two letters to the building's managing agent. They also solicited a letter of support from a neighbor across the hall. But the board told the Walters to "work out a resolution directly with [their] neighbors." (No one on the board would comment for this article.)

One afternoon, Richard Walter encountered the jeweller, outside the building, riding a unicycle. He was a trim man of about forty-five. Pleasantries were skipped. Walter asked him to come by 6D the next day to discuss the noises. The meeting lasted about half an hour. As the Walters recall it, the jeweller suggested that they wear earplugs.

In the spring of 2002, by which point the Walters had all but abandoned their apartment for a second home, on the water in Amagansett, Long Island, a friend of theirs came across an article in *Modern Jeweler* describing the work of John Nels Hatleberg, "the world's best diamond replicator." Hatleberg spent months at a time rendering meticulous copies of great diamonds—the Hope, the Incomparable, the Millennium Star, among others—for the owners of those diamonds. His clients, such as De Beers, Harry Winston, the Smithsonian, and the British Natural History Museum, liked to have replicas for display, documentation, or security. The copies, in other words, weren't for society ladies to wear out at night.

What interested the Walters, though, was the description in *Modern Jeweler* of Hatleberg's studio: it was in "one of the world's priciest buildings," just across from the Metropolitan Museum of Art. "Pride of place in the studio is given to his worktable, a descriptively painted circular table called a baldachino," the article said. "On it today is his Ultra-Tec cutting machine." And on an adjoining page was a picture of Hatleberg manipulating a sturdy-looking device. The caption read, "The perfect setting for replication." Hatleberg was their man, of course, and that was his machine.

Now that the Walters had a better idea

of what Hatleberg was doing upstairs, they hired a lawyer, who helped them arrange a special meeting with the co-op board. The meeting took place last January, in a board member's apartment. The participants sat around the dining-room table, like the heads of the five families in "The Godfather." The Walters' lawyer was aggressive, which startled the board. He argued that Hatleberg was running a business out of



the apartment and operating what seemed to be industrial machinery in a residential building—in violation of the building's proprietary lease—and so the noises, if not the noisemaker, should be made to go away. Walter then got up and spoke more plainly: both Dimson and Hatleberg ought to be kicked out. As Walter tells it, some of the board members laughed at him. "To them, this is funny," he said.

The board's lawyer responded, two weeks later, in a letter that betrayed no amusement, though it did reflect some skepticism. "The Board is requesting the parties to agree to jointly retain the services of Cerami Consulting Engineers to test the noise level emanating from the equipment allegedly used in Ms. Dimson's apartment." Referring to another of the Walters' concerns, the letter read, "We also reiterate our request that you substantiate your assertion that Mr. Hatleberg's activities present a risk of fire and explosion." The board noted that Hatleberg had characterized his work as "fine art," which would be permitted in a residential building.

The Walters suspected that the engineers would not be able to measure the noises accurately. (Decibel levels can be difficult and expensive to capture, and, as anyone who has ever been kept awake by a leaky faucet knows, they do not necessarily reflect a sound's sleep-depriving properties.) The Walters also figured that if they did bring in the engineers Hatleberg would be aware of it and would cease making the noises—which, of course, would defeat the purpose of the exercise.

Instead, two months later, in March, 2003, the Walters filed a lawsuit, against Hatleberg, Dimson, and the building. In addition to silence, they asked for twenty-five million dollars in damages. "Plaintiffs' occupancy, quiet use and enjoyment of Apartment 6D has been interrupted and, for extended periods, de-

nied by vibrations and loud, offensive, and incessant hammering and noises, which continued and continue throughout the day, night and into the early morning hours, emanating from Apartment 7D (collectively, the 'Noises')." The suit betrays some of the more necromantic visions that came to the Walters, based on facts they'd seen in *Modern Jeweler*: "Hatleberg also creates body cream and lotions made from crushed pearls. Upon information and belief, the crushing of pearls may be part of the Noises."

The lawyer for Dimson and Hatleberg responded by threatening to sue the Walters for bringing a frivolous lawsuit. When I talked to Dimson, she explained that she and Hatleberg had done everything they could to accommodate them. They had installed carpeting and padding, she said, and offered to make 7D available to sound engineers. On one occasion they'd even sent the Walters flowers. Now, she said, "I'm terrified of them."

A week after the Walters' suit was filed, the judge, Joan Madden, of State Supreme Court in lower Manhattan, told the Walters to hire sound experts to provide evidence of the Noises. Once again, the Walters didn't think that this would work. So they withdrew the suit.

By this time, Richard Walter had acquired an adviser and ally, his brother-in-law Bob Bernstein, the former chairman and C.E.O. of Random House and the founding chairman of Human Rights Watch—a tenacious fellow. Over the years, this tenacity has been deployed on behalf not just of writers and dissidents but also of co-op residents who have been afflicted by the caprice of the Landmarks Preservation Commission. Ten years ago, Bernstein fought the commission over its demand that he replace two windows in the kitchen of his Park Avenue apartment; the windows had been deemed "nonconforming." "I have spent a large part of my life trying to get governments off people's backs," he told the *Times* in 1993. In the end, he got to keep his windows.

When Bernstein, who is eighty, heard about what was happening to the Walters, he was outraged. "The board is treating Richard like he's dirt," he said recently. "He's a shy man. This is difficult for him." ("Bob is treating me like I'm a dissident Chinese," Walter said.) Now,

after the failure of the lawsuit, Bernstein girded the Walters for protracted battle.

Their next move was to hire a private investigator. In June, the investigator attended a lecture that Hatleberg was giving at Sotheby's. She procured a card that listed 1016 Fifth Avenue as Hatleberg's business address ("readily available for distribution to attendees," she noted in her report) and even asked a few questions. Afterward, she researched some of the chemicals that Hatleberg had said that he used, including RTV silicone, liquid nitrogen, and a solvent called "attack," overexposure to which, her report read, "can cause loss of consciousness and death." Her information gave the Walters some fresh hope. If Hatleberg's work was potentially noisome as well as noisy, the board would have no choice but to stop it. They were beginning to lose faith, though. They were sure that the board was against them. As Richard said, "I'll bet that if you had a bunch of hookers in the building you'd get away with it."

One of the first things you see, after you step off the elevator on the seventh floor at 1016 Fifth—blue-liveried attendant holding open the elevator door—and into apartment 7D, is the unicycle. It occupies the same place in the Dimson apartment that the Walters' walking sticks do one floor below. If there is such a thing as a unicyclist look, Hatleberg's got it: he is short and slight, narrow-shouldered, with curly, receding black hair and an anxious turn of the lips that recalls Horshack, from "Welcome Back, Kotter." When I visited him this summer, he was dressed in black Nikes, black jeans, and a sweater, and was accompanied by a miniature poodle. He remarked that he preferred living downtown.

The layout of the apartment was virtually identical to the one downstairs, but the design was very different—sleek and modern, with an Art Deco flair. In the spot where the Walters have a grandfather clock, Dimson has a giant Thai Buddha. New Age-y music was playing—softly—from speakers hidden in the ceiling of the dining room. Dimson was away.

The first thing Hatleberg remarked upon was that he had read recently in the *Times* about Pullman, the bond salesman who was kicked out of his co-op for litigating over noise. Hatleberg seemed to

feel that it was an encouraging precedent.

Frankly, he preferred to talk about gems. He launched into a dizzying dissertation on the history of counterfeiting: the first synthetic ruby, in France in the eighteen-nineties; Mikimoto's imitation pearls; Bell Labs' early synthetic diamonds, which looked like dirt; General Electric's first gem-quality fake diamond, in 1972. He chronicled his own obsession with the legendary Koh-i-noor, a hundred-and-eighty-six-carat diamond that had been coveted by rulers in Persia and India for five hundred years. In 1849, as part of the Treaty of Lahore, Queen Victoria laid claim to it, and had it cut down to a more brilliant hundred and nine carats. In 1991, Hatleberg, with the help of a curator at the British Museum, tracked down a cast of the original in a drawer in the museum's basement. Since then, he's been negotiating to re-create it.

"Now I'm going to show you my studio," Hatleberg said. Off a hallway with several doors was a little corridor, on the floor of which lay a glazed slab of petri-

fied wood, about the size of a beach towel—a hundred and eighty million years old, he said. "It's the drawbridge to my studio. This is my artistic space. I want it to be separate." Hatleberg removed his shoes and had me do the same, before crossing into what, by Manhattan standards, would be considered a small-to-medium-sized bedroom, if there were a bed in it, as there was in Linda Walter's room, directly below. Instead, there was the baldachino in one corner and a low-slung chair in another, and art work propped here and there—cornucopia with pearl kernels, and tiny crystal figurines. The décor was Sorcerer's Lair.

"I'm sure you've noticed that this is a place where not a lot of manufacturing goes on," he said. "The only machine I have here is my faceting machine. I can do amazing things with that machine." When he delivers his replicas, he likes to put the original in one hand and the copy in the other and say, "Guess." To replicate a diamond, he needs to spend as much time with it as possible. (He says, how-

ever, that he never has the diamonds in the apartment.) He makes molds out of RTV silicon, then a resin cast the exact size and shape of the original, and tries to find the right combination of natural gem and synthetic materials to mimic the gem's distinctive color. "Then it's just me at my faceting machine," Hatleberg said. The term "gem-cutting" is something of a misnomer, he added. "There was this famous idea that gem-cutters could cleave a diamond"—that with a mallet and a chisel they could create exquisite jewels out of lumpen stone. (The Walters seemed to have this impression, too.) In fact, gems are ground down, worn away.

Hatleberg got behind the baldachino to demonstrate. The machine was about the size of a turntable, with a grinding wheel connected to a device that resembled an optician's gadget: dials, lenses, an adjustable arm. When he turned it on, it hummed faintly. Then he attached a cube of quartz to a clamp on the arm, which he swung toward the wheel. He pressed the stone against the wheel. It

sounded a bit like a running toilet or a handheld fan. "This is their case, Nick," he said. "This is their case." There was no way to tell whether what he was doing just then was what he usually did, when no one was watching and the Walters were lying in bed, but, if it was, an argument could be made that there was something hypnotic about the sound.

Hatleberg then opened a hidden cabinet in the wall and pulled out two bottles. "These are the chemicals I have: diamond powder"—he unscrewed the cap—"and mineral oil. Totally harmless." He presented them for observation—odorlessness confirmed—then put them back in the cabinet and shut the door. As for the other chemicals—the attack and so forth—he said that he uses them rarely and in minuscule quantities, and that when he needs them he goes out and gets them, then throws them away. He also said that he did heavy work in a studio downtown—and that he had never crushed pearls.

"You've heard the sound, you've seen

the chemicals," he said, pausing to allow the Hans Blix-ian implications to sink in. Outside, you could hear a bird in a tree. "These people have caused a lot of grief in the household. I'm trying to restrain myself here. Doing this is about as loud as braiding a woman's hair. I have my own opinions about them. I call the man 'sir.' It's a civility that he has not returned."

It should be noted that, to this day, the Walters and Rise Dimson have never met. The doormen make sure that their paths don't cross.

**I** will not get in the elevator with that person," Linda Walter said of Hatleberg, a few nights later. The Bernsteins were visiting. They and the Walters sat around a coffee table in the living room. Bob Bernstein is tall and gregarious, with an air of elegant amusement that suggests a lifetime of arguments savored and won; his wife, Helen, Richard's younger sister, looks as though she's been a wry witness to most of them.

"The board has completely neglected

its responsibility," Bob Bernstein said.

Richard said, "They won't return my calls."

"It's like a circus," Linda said. "I've lived in New York all my life and I've never had this before."

At some point during the conversation, the air-conditioner in the living room window had started whirring loudly, as air-conditioners will do. The sound was somewhere between a buzz and a rattle—a loose belt or fan, maybe.

Linda kept glancing, with increasing agitation, over at the window. "Richard," she said.

The whirring continued. "The idea that nothing is going on is on its face ludicrous," Bernstein was saying.

"Richard," she said again. Her husband looked at her, then stood up and went over to the window. "It's the air-conditioner, not Hatleberg," he said—a joke. He turned the thing off. The silence was a balm. As the room got warmer and the buses sped by, the Walters continued to press their case. ♦