

411.550 Determination of private nuisance.

- (1) In determining whether a defendant's use of property constitutes a private nuisance, the judge or jury, whichever is the trier of fact, shall consider all relevant facts and circumstances including the following:
 - (a) The lawful nature of the defendant's use of the property;
 - (b) The manner in which the defendant has used the property;
 - (c) The importance of the defendant's use of the property to the community;
 - (d) The influence of the defendant's use of property to the growth and prosperity of the community;
 - (e) The kind, volume, and duration of the annoyance or interference with the use and enjoyment of claimant's property caused by the defendant's use of property;
 - (f) The respective situations of the defendant and claimant; and
 - (g) The character of the area in which the defendant's property is located, including, but not limited to, all applicable statutes, laws, or regulations.
- (2) A defendant's use of property shall be considered as a substantial annoyance or interference with the use and enjoyment of a claimant's property if it would substantially annoy or interfere with the use and enjoyment of property by a person of ordinary health and normal sensitivities.

Effective: May 24, 1991

History: Created 1991 (1st Extra. Sess.) Ky. Acts ch. 11, sec. 6, effective May 24, 1991.