

MPT - Selected Answer 1

III. Argument

The standard for granting a preliminary injunction is well-established. *Timo Corp.* The plaintiff must show: (1) a likelihood of ultimate success on the merits; 2) the prospect of irreparable injury if the provisional relief is withheld; and 3) that the balance of equities tips in the plaintiff's favor. *Otto*.

Margaret Ashton has established the likelihood of ultimate success on the merits under Parker because Indigo Corporation's conduct was the proximate cause or an unreasonable interference with her use and enjoyment of her property and was intentional or negligent.

A private nuisance is a non-trespassory invasion of another's interest in the private use and enjoyment of land. 4 RST 2d of Torts §821D (1979).

To recover damages in common law private nuisance cause of action, a plaintiff must prove the following elements: 1) the defendant's conduct was the proximate cause; 2) of an unreasonable interference with the plaintiff's use and enjoyment of his or her property; 3) the interference was intentional or negligent. 4 RST 2d of Torts §822 (1979).

Indigo Corporation's conduct was the proximate cause of Margaret Ashton's injuries

Margaret Ashton has shown that the defendant's operation of the residential construction and landscaping business was the source of the noise, dust, and when rainy, mud and flooding. Ashton Affidavit. Ashton has resided on her property for 32 years. It was not until April of 2012 that she began to see and hear large trucks driving onto the vacant lot that abuts her property and dumping dirt onto the lot. *Id.* Given the length of time that Ashton has resided on this lot without this interference, Indigo's conduct is the proximate cause of her injuries.

Indigo Corporation's conduct was an unreasonable interference with the Plaintiff's use and enjoyment of his or her property because

In applying this element, the reasonableness of the interference with the plaintiff's use, the fact finder should consider all relevant factors, including: a) the nature of both the interfering use and the use and enjoyment invaded; b) the nature, extent, and duration of the interference; c) the suitability for the locality of both the interfering conduct and the particular use and enjoyment invaded; and d) whether the defendant is taking all feasible precautions to avoid any unnecessary interference with the plaintiff's use and enjoyment of his or her property. *Timo Corp.*

a) Nature of both interfering use and the use and enjoyment invaded

The nature of the enjoyment invaded on Ashton's property are: a) several kinds of noise; b) dust and dirt particles from the dirt pile blowing onto Ashton's property; c) an inability for Ashton to enjoy the flowers that she grows because of the quantity of dust deposited on them; d) additional sums for cleaning the outside of her house; e) cleaning the outside of the house more frequently than ever before; f) and runoff from the dirt pile flowing into her backyard in wet weather. Ashton Affidavit.

During the daytime, she cannot sit outside for periods of longer than one hour without hearing trucks coming to, depositing at, or leaving the lot. The noise prevents her from reading, gardening, or talking with visitors on her porch.

b) Nature, extent, and duration of the interference

The trucks travel through Ashton's neighborhood to the vacant lot on average of 17 times per day, both day and night. The interference occurs both in dry weather (the dust flying onto her property) and in wet weather (the runoff from the dirt pile). Trucks dump from 6 a.m. to 8 p.m. While Indigo agreed to stop dumping after 8 p.m., the interference occurs as early as 6 a.m., while many people are still sleeping. Indigo's limiting the time tips in favor of Indigo for this factor.

c) Suitability for the locality of both the interfering conduct and the particular use and enjoyment invaded

Indigo Construction Co. has a recorded interest in real estate, and the property is zoned for mixed use. Indigo is not in violation of the applicable zoning uses, though the rest of the lots are residential.

d) Whether the defendant is taking all feasible precautions to avoid any unnecessary interference with the plaintiff's use and enjoyment of his or her property

Indigo agreed to stop dumping after 8 p.m. While this is a feasible precaution, Indigo owns an undeveloped 50-acre lot on the outskirts of Appling. This lot has paved roads. Indigo has a reasonable alternative to dumping on the site that abuts Ashton's land.

The inquiry into the reasonableness of interference is objective, not subjective. Parker. Interference with the plaintiff's use of his property can be unreasonable even when the defendant's conduct is reasonable. Parker. A business enterprise that exercises utmost care to minimize the harm from noxious smoke, dust, and gas - even one that serves society well - may still be required to pay for the harm it causes to its neighbors. Prosser, Torts § 88. A defendant's use of his property may be reasonable, legal, and even desirable. But it may still constitute a common-law private nuisance because it unreasonably interferes with the use of property by another person. Parker. The focus in a cause of action for private nuisance is on the reasonableness of interference, and not on the use that is causing the interference. Parker.

While Indigo's conduct may be reasonable, their use of the property is unreasonable. Even if Indigo exercises utmost care to minimize the harm from the dust, may be required to pay for the harm it causes to its neighbors. The inquiry is not into the reasonableness of Indigo's actions, but the unreasonable interference with the use of Ashton's property. Ashton has used her property for the last 32 years, and is suddenly unable to do things that she has been enjoying for the duration of her land ownership. Indigo has a reasonable alternative in the undeveloped 50-acre lot with paved roads, which is on the outskirts of town and would likely interfere with fewer residents' property.

Indigo Corporation's conduct was intentional or negligent

Even if the plaintiff cannot establish that the defendant's intended their action to cause discomfort to their neighbors, if the plaintiff proves that the defendants were aware of the intrusion and chose to continue their behavior, the court can infer the mental state from that awareness. Timo Corp.

Here, Ashton has made Indigo aware of the interference with her enjoyment of the property. Aside from limiting the time of day that they dump, they continued in their behavior. Based on Timo Corp., from that awareness we can infer the mental state.

Margaret Ashton has also established irreparable injury because the prospect of noise, dust, mud, and flooding creates a harm for which the law provides no adequate remedy.

Land is unique and any sever or serious impairment of the use of land has no adequate remedy at law. Davidson. The prospect of noise, dust, mud, and flooding creates a harm for which the law provides no adequate remedy. Land is unique. Ashton has shown that there is serious impairment of the use of land, and

thus there is no adequate remedy at law. This factor has been met, which leaves only the balance of equities that must be proven in addition to this fact and the previous factor in order to grant a preliminary injunction.

The balance of equities tips in Margaret Ashton, the Plaintiff's favor when assessing the reasonableness of Indigo Corporation's actions in light of all relevant factors.

When, in addition to damages, a plaintiff seeks injunctive relief for private nuisance, additional considerations come into play.

Even the most reasonable of uses may become a nuisance, requiring that the defendant pay for the harmful effects of that use on others. Parker. However, to enjoin a reasonable use of property goes beyond imposing an added cost of doing business. Timo Corp. When ruling on motions for injunctive relief, courts must distinguish between those uses which should continue while absorbing the relevant costs, and those which are so unreasonable or undesirable that they should be stopped completely. Id. Courts must thus balance the social value, legitimacy, and indeed the reasonableness of the defendant's use against the ongoing harm to the plaintiff. In cases involving an underlying nuisance claim, the court must weigh the reasonableness of the defendant's use in making its determination.

a) Social Value

The social value of dumping the dirt in this location is low. As stated previously, Indigo owns another property where it could dump the dirt. While the operation of a residential construction and landscaping business does have social value, the value in having the location in this particular spot where it interferes with so many residents' land is low.

b) Legitimacy

The defendant's operations are legitimate and within the applicable zoning laws. This fact favors Indigo.

c) Reasonableness of Defendant's Actions in Light of all factors

The four elements of the reasonableness of Indigo's actions are: 1) respective hardships to the parties from granting or denying the injunction; 2) good faith or intentional misconduct of each party; 3) interest of general public in continuing the defendant's activity; and 4) the degree to which the defendant's activity complies with or violates applicable laws.

The respective hardships to the parties from granting or denying the injunction favors Ashton, because the Defendant has an alternative that is reasonable.

Here, the respective hardships to the parties from granting or denying the injunction largely favors Ashton. If the injunction is denied, Indigo's use of the property will continue to interfere with her use of the property. If the injunction is granted, Indigo has another property that it could dump the dirt on. Thus, Indigo would not be harmed, with the exception of having to drive to the outskirts of town to dump their dirt. The interference with Ashton's property is far greater.

The good faith or intentional misconduct of each party also favors Ashton. She let Indigo know of the interference, and they made only minor accommodations by not dumping after 8 p.m. As was stated in Timo, the state of mind can be inferred from this.

The interest of general public in continuing the defendant's activity also favors Ashton. While there is an interest in Indigo continuing their activity, there is no interest in them continuing it in the current location, versus their other land. They would not have to acquire any new land, and could conduct the same activity.

The degree to which the defendant's activity complies with or violates applicable laws favors Indigo. Their actions comply with the zoning laws, and the City has found no violations. Porter Affidavit.

This judgment is factual in nature. Timo. Based on the facts, when all of the factors are weighed, Indigo's use is a proximate cause of Ashton's injuries. While their conduct may be reasonable, unreasonably interferes with Ashton's property, and the balance of equities tips in Ashton's favor. The Plaintiffs request that the Court grant a preliminary injunction and enjoin Indigo from continuing with the activities that constitute the private nuisance interfering with the noise, dust, mud, and flooding of Ashton's and other residents' property.

MPT - Selected Answer 2

III. Argument

The standard for granting a preliminary injunction was set out in *Timo Corp. v. Josie's Disco, Inc.* The plaintiff must show (1) a likelihood of ultimate success on the merits, (2) the prospect of irreparable injury if the provisional relief is withheld, and (3) that the balance of equities tips in the plaintiff's favor. As is demonstrated below, plaintiff has met this standard.

A. Defendant has knowingly created a nuisance by using its land for dirt storage which has resulted in an unreasonable interference with plaintiff's property.

Plaintiff has set forth evidence demonstrating she is likely to be successful on the merits of this nuisance case. To recover in a common law private nuisance cause of action, a plaintiff must prove the following elements: (1) the defendant's conduct was the proximate cause (2) of an unreasonable interference with plaintiff's use and enjoyment of his or her property, and (3) the interference was intentional or negligent.

There is no dispute over whether defendant's conduct was the proximate cause of plaintiff's injuries in this case. Plaintiff's affidavit demonstrates that defendant's use of the adjoining land for dirt storage is what has proximately caused noise, dirt, and flooding to invade her property. The affidavit of William Porter confirms that this lot does in fact belong to Indigo Construction Co. Furthermore, neighbors, including plaintiff, have met with Indigo to discuss the issue and Indigo has never denied being the cause of the noise, dirt, and flooding.

Defendant's invasion of plaintiff's land constitutes an unreasonable interference with her use and enjoyment of her property. In *Parker*, the Franklin Supreme Court set forth the factors that should be used in determining the reasonableness of the interference with the plaintiff's use. The fact finder should consider all relevant factors, including (a) the nature of both the interfering use and the use and enjoyment invaded; (b) the nature, extent, and duration of the interference; (c) the suitability of the locality of both the interfering conduct and the particular use and enjoyment invaded, and (d) whether the defendant is taking all feasible precautions to avoid any unnecessary interference with plaintiff's use and enjoyment of his or her property. This is to be an objective standard asking what a reasonable person would conclude after considering all facts and circumstances. Here, Indigo's interference use is for commercial purposes. They use the land as a storage lot for dirt for its construction and landscaping business. Plaintiff, on the other hand, uses her land, as she has for the past 32 years, as her residential home. While commercial uses of property are important to a community, it is much easier for a company to move its operations to a different piece of land than it is for a residential owner to move his or her home to a new place. A home is much more unique than a commercial lot for dumping dirt. As plaintiff's affidavit shows, there has been extensive interference of her land in the form of noise, dirt, and mud flooding. This has continued since April and Indigo has made no indications that this interference will end. The interference has caused plaintiff not to be able to use her property as she previously has. She is unable to sit outside and enjoy activities, she is unable to maintain her garden as she used to, she has had to spend money on cleaning for her home, and the dirt pile has resulted in a lowered value of her home. Regarding the suitability of the locality, while Indigo does operate on a property zoned for mixed use, it is adjacent to property zoned for residential use. It is expected that a person living in an area zoned for residential use will be able to enjoy his or her property free of the interference of commercial uses. Finally, Indigo has not taken feasible precautions to avoid unnecessary interference. As is laid out in William Porter's affidavit, the company owns 50 acres of undeveloped land in Appling that it could use for this purpose. Additionally, the company has failed to engage in communications with the neighbors regarding the ways in which its interference with their land can be reduced.

Finally, there is no dispute regarding whether the interference was intentional or negligent. As the court in *Timo Corp. v. Josie's Disco, Inc.* noted, if plaintiff can prove that defendants were aware of the intrusion and chose to continue their behavior, we can infer the requisite mental state. Again, Indigo has never contested knowledge of the intrusion. The company has met with neighbors and there has been newspaper coverage on the contested land use. Indigo has intentionally chosen to continue its use despite neighbors' arguments.

B. Due to the uniqueness of plaintiff's residential land, the withholding of injunctive relief will result in irreparable injury to plaintiff.

In *Timo Corp. v. Josie's Disco, Inc.*, the Franklin Supreme Court reiterated a rule of law it announced in *Davidson v. Red Devil Arenas*. The court stated "our cases have long held that land is unique and that any severe or serious impairment of the use of land has no adequate remedy at law." In *Timo*, the Court found that the prospect of nightly intrusions of noise created a harm for which the law provides no adequate remedy. In the instant case, plaintiff not only faces the prospect of intrusions of noise on a daily basis, she also deals with dust and dirt particles being blown on to her property. Additionally, in wet weather, runoff from the dirt pile results in mud and flooding into her backyard.

Plaintiff has resided at this property for 32 years. As her family homestead, her residence is a unique piece of property. She can not simply move to another property that shares the same qualities as her current residence.

C. In balancing the equities of plaintiff's use of her residential land with defendant's commercial use, the equities favor plaintiff.

As the Supreme Court announced in *Timo Corp.*, when ruling on a motion for injunctive relief, the court must distinguish between "those uses, which should continue while absorbing the relevant costs, and those which are so unreasonable or undesirable that they should be stopped completely." This requires a balance of the social value, legitimacy, and reasonableness of defendant's use on the one hand, and the harm to plaintiff on the other. In determining this balance, the Supreme Court in *Timo* identified certain factors to be balanced. These include (1) the respective hardships to the parties from granting or denying the injunction, (2) the good faith or intentional misconduct of each party, (3) the interest of the general public in continuing the defendant's activity, and (4) the degree to which defendant's activity complies with or violates applicable laws.

Both parties will face some degree of hardship based on the outcome of this case, which is necessarily the case in any suit. Plaintiff's hardship will be much greater here though. The continued use of defendant's land as a dirt storage lot undermines plaintiff's ability to sit outside at her own home and enjoy activities she has previously engaged in. On the other hand, William Porter's affidavit shows that Indigo owns an undeveloped 50-acre tract on the outskirts of Appling, which appears to be a place where Indigo could store its dirt. Thus, an injunction may only require Indigo to move its dirt to another property that it already owns.

Plaintiff has engaged in no intentional misconduct. The concerns of neighbors demonstrates that plaintiff is not alone in seeking relief from this nuisance and that there is a good faith issue at hand. Despite a great deal of communication between neighbors, the news media, and even consideration by the City Council, Indigo has chosen not to engage in meaningful discussions. The company did agree to stop dumping after 8 p.m., but has not been willing to address any of the neighbors other concerns, including the excessive noise that still occurs from 6 a.m. to 8 p.m. daily.

Ms. Gibbons, the City Manager, has noted that Indigo is benefiting the city by pushing affordable housing projects forward and offering jobs in the community. While these are benefits to the community that

plaintiff would not dispute, these benefits would remain even if Indigo was forced to move its dirt storage to another property in the community. It is also true that Indigo has not violated any laws in using the property as it has, as the lot it owns is zoned for mixed use. While this is a factor to be considered, however, the Supreme Court has stated that just because a use does not violate a law, does not make it a reasonable use. As plaintiff can demonstrate in a case on the merits, as explained in Part a above, defendant's use remains unreasonable despite its legality.

MPT - Selected Answer 3

Brief: Ashton v. Indigo Construction Co.

III. Argument

A. The court should grant a preliminary injunction against Indigo because (1) Indigo intentionally caused an unreasonable interference with Ashton's use and enjoyment of her property by making noise, creating dust; and hindering her yard and quality of air; (2) Ashton will suffer irreparable harm to the value and enjoyment of her home; and (3) the balance of equities tips in Ashton's favor.

Private nuisance is a non-trespassory invasion of another's interest in the private use and enjoyment of land. The essence of a private nuisance is an interference with the use and enjoyment of land. To succeed on a private nuisance claim, a plaintiff must prove: (1) the defendant's conduct was the proximate cause; (2) of an unreasonable interference with the plaintiff's use and enjoyment of his or her property, and (3) the interference was intentional or negligent (Parker).

To obtain a preliminary injunction based on private trespass, plaintiff must show: (1) a likelihood of ultimate success on the merits; (2) the prospect of irreparable injury if the provisional relief is withheld; and (3) that the balance of equities tips in the plaintiff's favor (Timo Corp.).

As discussed, below, the Court should grant a preliminary injunction to enjoin the use of Indigo's land on 154 Winston Drive.

1. Ashton is likely to succeed on the merits of her private nuisance claim because Indigo intentionally caused an unreasonable interference with Ashton's use and enjoyment of her property by making noise, creating dust, and otherwise impairing the value of her land.

Ashton will succeed on the merits of her private nuisance claim. First, Indigo's conduct is the proximate cause of the interference to her land. Indigo is traveling through Ashton's neighborhood 17 times a day, both day and night, and is making loud noises from the roaring engines, drivers applying their brakes, and a crashing and grinding sound, and loud beeping. In addition, Indigo's dirt pile is causing water to flood over to Ashton's property and for dust to accumulate on her land. Clearly Indigo is the proximate cause of the interference to Ashton's property. Second, Indigo's actions constitute an unreasonable interference with Ashton's use and enjoyment of her property. In determining what constitutes an unreasonable interference, the court should consider all relevant factors. These include: (a) the nature of both the interfering use and the use and enjoyment invaded; (b) the nature, extent, and duration of the interference; (c) the suitability for the locality of both the interfering conduct and the particular use and enjoyment invaded; and (d) whether the defendant is taking all feasible precautions to avoid any unnecessary interference with the plaintiff's use and enjoyment of his or her property.

(a) First, nature of the interfering use is more typical of a industrial activity, while Ashton's use and enjoyment of her property is residential in nature. In Parker, the court found that the smell originating from a dairy cow operation and the manure was an unreasonable interference with plaintiff's use of the property because they were unable to even go outside, let alone keep their windows open. So persuasive was the smell that ultimately the plaintiffs were forced to relocate from their home. Here, Indigo's actions have interfered with Ashton's residential life: she is no longer be able to enjoy her flowers (which have dust deposited on them), enjoy a relatively quiet and peaceful environment, and not be interfered with noise and dust. Granted, these types of damages aren't as severe as the sickening odor in Parker, but they are unreasonable because of its proximity to a residential neighborhood, as discussed below.

(b) Second, the nature, extent, and duration of the interference is significant. Indigo has trucks going to and from their lot on average 17 times per day, both night and day. The dirt pile is now almost 20 feet high, like a landfill. The interference has been occurring since April 2012.

(c) The suitability of the locality of the interfering conduct is not proper because it is located right next to a residential neighborhood. Granted, Indigo's property is zoned as a mixed use, but under Franklin law, a court does not consider the use that is causing the interference or whether it complies with the zoning laws. The court in Parker stated: "A use which is permitted or even required by law and which does not violate local zoning or land use restrictions may nonetheless be unreasonable and create a common-law nuisance." As for Ashton's use, she lives in a residential neighborhood, and the type of interference is exactly the type of harm that might occur from an industrial activity of this sort.

(d) Finally, Indigo did stop dumping dirt at night, restricting their activities to 6:00a.m. to 8:00p.m. Although this concession helped reduce the noise at night, Indigo has done nothing else to prevent the unreasonable interference from happening during the day. Indigo, for example, could have moved their dirt piling operation to their property (an undeveloped 50-acre tract) on the outskirts of Apping. They could have restricted the amount of trucks from using the lot and they could have restricted the size of the dirt pile, as well as cover it to protect against it blowing onto other residential properties. In addition, Indigo could have taken reasonable steps to prevent the runoff that occurs during rainstorms, but they did not.

Third, Indigo's conduct was intentional because they were aware of the harm caused. In *Timo Corp.*, the court found that the intentional harm requirement was met when, although the plaintiff was not able to prove that the defendants intended the noise to cause discomfort to their neighbors, the plaintiff did prove that the defendants were aware of the intrusion and chose to continue their behavior, and thus, from this awareness, the court was able to infer the requisite mental state. Here, Indigo is aware of the harm caused: they have been to meetings with the neighbors, they are obviously aware of the news article, and understand the harm that is being caused. Therefore, the requisite mental state should be found here as well.

Thus, because Indigo intentionally caused an unreasonable interference with Ashton's use and enjoyment of her property by making noise, creating dust, and otherwise impairing her use and enjoyment of the property, Ashton will likely be successful on the merits.

2. Ashton is likely to suffer irreparable harm because Indigo's activities have caused a serious impairment to Ashton's use and enjoyment of her land, and no adequate remedy at law exists.

Ashton is likely to suffer irreparable harm because Indigo's activities have caused serious impairment to Ashton's use and enjoyment of her land, and no adequate remedy at law exists. In *Timo Corp.*, the court noted that "our cases have long held that land is unique and that any severe or serious impairment of the use of land has no adequate remedy at law." Therefore, the court found irreparable harm where a bar, located nearby a residential community, caused nightly intrusions of noise. Thus, despite the possibility that Ashton may have a cause of action for damages, the uniqueness of her residential lot causes irreparable harm to occur. As discussed above, a serious impairment to the use of her land has occurred because of the noise, dust, and other disruptions have precluded her from enjoying a peaceful residential community and the use of her backyard. Therefore, the court should find that this requirement--irreparable harm--has been met because it is consistent with the court's finding in *Timo Corp.*

3. Finally, the balance of equities tips in Ashton's favor because Indigo has alternative options for storing its dirt and the hardship on Ashton is particularly acute where her home life is being substantially disrupted.

For the final requirement to issue a preliminary injunction, the court should find that the balance of equities favors Ashton. Under Franklin law, the court should examine several factors to determine whether an injunction would be fair. These include: (1) the respective hardships to the parties from granting or

denying the injunction; (2) the good faith or intentional misconduct of each party; (3) the interest of the general public in continuing the defendant's activity, and (4) the degree to which the defendant's activity complies with or violates applicable laws. Indeed, in *Timo Corp*, the court noted that to enjoin a reasonable use goes beyond imposing an added cost of doing business. It has the potential to stifle legitimate activity. To avoid this risk, the court stated, when ruling on motions for injunctive relief, "courts must necessarily distinguish between those uses which should continue while absorbing the relevant costs, and those which are so unreasonable or undesirable that they should be stopped completely." Here, unlike above, the reasonableness of defendant's use is considered, and the task to balance the social value, legitimacy, and indeed the reasonableness of defendant's use against the ongoing harm to the plaintiff. These factors, as well as the four listed, will be discussed in turn.

(a) First, the respective hardship to the parties clearly favors Ashton because she would have to move to avoid the disruption that Indigo is causing, while Indigo can either reform its conduct to a reasonable use or it could make use of a more suitable location that it owns on the outskirts of Appling. While the facts provide no detail whether this transfer of operations could take place for Indigo, it seems more proper given Indigo's use is harming a residential community, and Indigo has a reasonable alternative.

(b) The next factor, good faith or intentional misconduct may not apply here because there is no evidence that Indigo acted in bad faith or intentionally engaged in any misconduct. Indigo should be credited for stopping their operations in the evening. But, there is some intentional misconduct because Indigo knows that they are causing harm to the residential community. Their efforts to mitigate that harm have been not enough.

(c) The interest of the general public also favors Ashton. Here, the location of the residential community is in the heart of the old Graham District, a neighborhood of peaceful homes and shady trees. Failure to stop Indigo might lead other industrial activity near this great neighborhood. Although Indigo does provide a valuable service to the community by constructing homes, and overall has a good environmental record, the community interest should favor that of residential needs over other industrial actions that could be more properly done elsewhere, especially where there is a suitable alternative.

(d) Finally, Indigo's activities are clearly within the applicable laws because its property is zoned for mixed use. It has not violated any city ordinances and the city has expressly decided not to prosecute Indigo. These facts are similar to the court's holding in *Timo Corp.*, where city officials declined to cite the bar for violations of applicable noise ordinances. There, the court noted that: "the operation of the bar was entirely reasonable" and there was no precedent for granting relief that would upset the status quo and potentially hurt the bar's business. These facts are distinguishable from our current case because requiring Indigo to stop its activities or engage in reasonable activities would not hurt the Indigo's business. Plus, in *Timo Corp*, the use of the bar was seasonal and limited to nighttime, whereas here, Indigo's use is continual (all day, everyday), and year-round. In any event, the three factors above weigh (at least two of them) in favor of issuing a preliminary injunction. The public interest in clean, quiet, and peaceful neighborhoods is significant, and the hardship to Ashton, as well as many other people, is great. In conclusion, the court should grant a preliminary injunction against Indigo because (1) Indigo intentionally caused an unreasonable interference with Ashton's use and enjoyment of her property by making noise, creating dust; and hindering her yard and quality of air; (2) Ashton will suffer irreparable harm to the value and enjoyment of her home; and (3) the balance of equities tips in Ashton's favor.