



# Palo Alto

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Gardeners and leaf-blower manufacturers are threatening a \$5.5 million lawsuit against the City of Palo Alto, claiming the City Council violated the Federal Clean Air Act when it banned gas-powered leaf blowers last year.

The federal law prohibits cities from setting their own emissions standards, according to attorney William M. Guerry, Jr., who is representing the Bay Area Gardeners Association and the Outdoor Power Equipment Institute.

Yesterday, Guerry filed a claim, the first step to a lawsuit, with the city, alleging the ban created an illegal patchwork of standards. The ban does not prohibit electric-powered blowers, which can be just as loud as the gas-powered models, he noted.

"I think it's outrageous and I think a court would find the city culpable and demand remunerations to the gardeners," Guerry said.

The lawsuit would also seek to end the ban.

Senior Deputy City Attorney Donald Larkin said the ordinance does not regulate air emissions.

"This is a regulation of leaf blowers primarily based on noise concerns," he said.

The council had passed the ban in 2000, after a bevy of complaints from residents about both the noise and dirt the gas-powered blowers produced. For years, the council delayed implementation to see if technological advances would make the need for the ban void. Last June, the council decided to go ahead with the ban. Numerous Latino gardeners protested at the meeting, saying the action would threaten their livelihoods.

Since, the gardeners have repeatedly asked, to no avail, that the council reconsider the ordinance.

"Given the exposure, we're just amazed the city hasn't returned our phone calls or the gardeners' phone calls," Guerry said.

The attorney also alleges the city pulled a bait-and-switch. During the period between 2000 and 2005 the gardeners purchased quieter gas-powered blowers to try to appease the council, Guerry said.

The attorney argued that the city's delay implementing the ban was a promise to not enforce the ordinance should technology improve.

"We think Palo Alto should live up to its commitments," Guerry said. "It's legally and morally obligated to do so."

The gardeners hope to recoup the \$4 million they spent on quieter leaf-blowers and another \$1 million in lost income. Manufacturers of leaf blowers are also seeking \$500,000 in lost sales.

Larkin said the council never promised to repeal the ordinance.

"I'm not aware of any agreement between the city and the gardeners association," he said.