

Are grass-covered yards and balconies off limits to kids?

Do Not Discriminate Against Children, Period

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Most of us are familiar with anti-discrimination laws; the ones that prohibit discrimination on the basis of sex, race, color, religion, ancestry, and national origin. Additionally, a great percentage of us are aware that it is unlawful to discriminate on the basis of sexual orientation, disability, or medical condition. However, it seems that some of us need to be reminded that these laws have been expanded to cover additional areas, including age and familial status. Just such a reminder came in the form of the settlement of a lawsuit in February 2003, where a management company and an association agreed to pay \$130,000 (say goodby to your reserves).

Familial Status Discrimination Tested

In *Housing Rights Center et al v. Rivera Townhomes et al*, #CV 02-5163PA (C.D. Cal. Feb. 2003), the Housing Rights Center and seven separate families, eighteen individuals, sued the condominium association, Baldwin Management Co., the owner of the management company, the property manager, and others associated with the association. The lawsuit was filed in federal court in August of 2001, and alleged that defendants discriminated against homeowners on the basis of familial status in their operation of the 56-unit townhouse complex.

Specifically, the complaint alleged that defendants enforced a rule prohibiting children from playing in the complex's common areas. According to the defendants' written rules and fine notices, the common areas included the grass-covered yards and balconies.

Family Concern for the Health of Their Children

Children were afraid of playing outside because of fears about harassment or fines which their parents might incur by continued use of prohibited yards and balconies. Many residents in this Pico Rivera, California complex were concerned that curtailing children's play would create an unhealthy situation for

everyone as corroborated by a Los Angeles psychologist, Dr. Robert Caper, in his expert declaration, which substantiated the emotional stress injuries suffered by the families in this case.

Caper stated, "Children need accessible outside places to play...because it is an important part of their development...to differentiate them [children] psychologically from their parents. Signs of stress are exhibited when cooped up...and this in turn causes stress to their parents... effecting their ability to parent well... and so on in a vicious cycle."

Children interpret this forced unrealistic and unhealthy restriction on their play activities to avoid fines or eviction as hostility stemming from their own parents, thus damaging the relationship between parents and children.

Judge Signs Consent Decree and Final Order

On February 12, 2003, the judge signed a Consent Decree and Final Order, a document that is similar to a stipulated settlement, where the parties write down their settlement terms. While the defendants denied all material allegations, they agreed to (a) pay plaintiffs \$130,000, and (b) repeal all rules regarding children. The defendants also agreed to attend a two year training program for all key staff of Baldwin Management and the board members of Rivera.

Lesson on Age Discrimination

Discrimination is just plain wrong. Period. It is also against

the law. If you or your community discriminates against any protected class, it could result in an expensive lesson in how to follow the rules. Here is a good lesson on age-discrimination (a.k.a. familial status). Your rules cannot single-out children for disparate treatment unless there is an applicable safety statute (like the pool/spa rules of the Health Department).

It's a good idea that if you have a question about any rule or proposed rule, you should seek appropriate guidance by way of a legal opinion from a qualified professional before you get in trouble. ■

