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LEGAL BYTE

Greetings to my valued connections!

Another byte of law for your interest. Topic: Are boys and girls different?

What if a landlord allows only some children to live in his or her rental units but not others? This was the question in the case of *Flowers v. John Burnham & Co.* (1971) 21 Cal.App.3d 700, 98 Cal.Rptr. 644. In that case the owner of an apartment complex imposed a restriction on tenancy which limited the children tenants to girls of all ages and boys under five years only. The landlord justified this restriction on the ground that boys and girls are different. Plaintiffs sued under the Unruh Act (Cal. Civil Code 51) and alleged constitutional violations and discrimination. The trial court granted defendant's demurrer without leave to amend (it never got passed the complaint stage).

The issue before the Court of Appeal was whether the discrimination was arbitrary and unreasonable. The court held that only arbitrary discrimination by a landlord is prohibited by the Unruh act. The Court of Appeal affirmed the trial court's ruling "[b]ecause the independence, mischievousness, boisterousness and rowdyism of children vary by age and sex[.] Regulating tenants' ages and sex to that extent is not unreasonable or arbitrary." *Id.* at 703.

See also, Sunrise Country Club Assn. v. Proud (1987) 190 Cal.App.3d 377, *Marina Point, Ltd. v. Wolfson* (1982) 30 Cal.3d 721 (restricting all kids is arbitrary) and *Ingels v. Westwood One Broadcasting Services* (2005) 129 Cal.App.4th 1050, 28 Cal.Rptr.3d 933.

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