

Santa Cruz Boys' Club— it will be for girls, too

By CAROLYN
HEEBNER-SWIFT

Children, parents and ACLU attorneys themselves embraced and fought back tears of joy Tuesday morning as Superior Court Judge Chris Cottle ruled that girls had a right to be admitted to the Boys' Club in Santa Cruz.

Although attorneys for both sides had asked for additional time to file briefs in the suit, brought against the Boys' Club on behalf of five Santa Cruz girls, Cottle announced shortly before 11 a.m. today that he was ready to make a decision now.

"I am not doing this for emotional reasons," said Cottle after announcing that he would rule for the girls. "I have tried to eliminate emotional feelings as much as possible and have tried to deal with the basic question. I believe the Unruh act does apply in this case."

("The Unruh Act is the state civil rights statute which prohibits discrimination by businesses.)

"There is more than one way of looking at the words to define business establishment," the judge said. He said he, personally, understood a business to be a commercial enterprise where goods are sold for profit, but that he didn't feel this was the legal definition.

"It means something more," Cottle said. "It means all (kinds) of public accommodation and recreation."

The judge said the meaning was spelled out clearly in federal court cases and in the language of the Civil Rights Act. The incorporation of a similar meaning in the Unruh Act is the result of the liberal interpretation intended by the California Supreme Court, he said.

Cottle said he felt less comfortable with his decision on whether or not the discrimination against girls by the Boys' Club has been arbitrary.

"My opinion as based on the law is that it is an arbitrary discrimination," he told the court, "And even if it isn't, I don't see sufficient justifi-

cation for exclusion of one sex."

He added that he was uneasy with a decision he knew would disrupt a worthwhile program. But in weighing sex discrimination against the potential hardship to the organization, Cottle said, "It is obviously more important to follow the law as it is stated, even though the consequences may be uncomfortable on a short term basis."

The judge did not set a date for a conference to decide how girls may be integrated into the Boys' Club. Two options were discussed in court — either to allow girls to participate on alternate days, or to impose a non-restrictive access. At the time of this hearing, it will also be decided when girls will be allowed to enter the Boys' Club program.

Bob Bosso, defense attorney, is expected to appeal Cottle's decision to the First Appellate District Court in San Francisco. The admittance of girls may be delayed until after the appeal.

In an opening statement Monday, ACLU cooperating attorneys Susan Poulus and Diane Thompson said the state's Unruh statute says that all persons are entitled to full and equal accommodations "in business establishments of all kinds." The law, they said, implies that any organization that serves the public is defined as a business establishment and is therefore forbidden to deny membership on the basis of sex, race, color, religion, ancestry or national origin.

The attorneys argued that the Boys' Club is covered under the phrase, "business establishments of all kinds," since it is partly funded by a public agency — the United Way — and since membership is open to all boys regardless of race, color, religion, ancestry or national origin.

Ms. Poulus said interpretation of the Unruh Act is the first of two key issues facing the court. If the club can be defined as a business, the next question is whether the organization

arbitrarily discriminates against girls.

Four of the five plaintiffs were present in court Monday to give their reasons for wanting girls included in the Boys' Club. Naomi Goldfrank, celebrating her 11th birthday, said she was one of a small group of children and parents who tried earlier this year to gain admission to the club.

Miss Goldfrank pointed out the Boys' Club facility has the only indoor pool in the Santa Cruz area, and is the only place she knows of where children can learn skills such as woodworking or how to play pool.

When she was denied membership, Miss Goldfrank said, "I felt like I was a piece of dirt or something. It made me feel really awful."

Zachery Wormboudt, a classmate, has been a two-year member of the Boys' Club, and he said he wants girls to be members.

"I think girls should have the same rights as boys," he testified.

Other plaintiffs are Paula Smith and Michael Frick, who testified, and Victoria Isbister, who was absent.

By BOB SMITH

Water quality is generally good in the mid-county areas served by the Soquel Creek County Water District, but if you live in the La Selva Beach or Seascape areas, you're drinking better water than the residents of Capitola and Soquel.

The district, currently pumps all of its water from a series of wells in the coastal plain stretching from 41st Avenue south through La Selva Beach.

Water tests are conducted yearly by the district to assure that water meets the standards set by the federal Safe Drinking Water Act.

District Manager Bob Johnson said the district meets all of the federal standards

Bosso challenged the definition of the Boys' Club as a business. The club is a private organization that promotes the health and well-being of boys, he said, and does not qualify as "a business of any kind whatsoever," as described in the Unruh Act.

"Mr. and Mrs. John Mallory provided more than \$1 million for purchase of the land and construction of the building," Bosso added, "And the Mallory trust fund provides more than 80 percent of the funding. The club is not commercial, and sells nothing, except hot dogs and juice for the convenience of the boys on Saturdays."

There are some 1,200 boys ages 8-18 years involved with the local club, the attorney said, and one of the major thrusts of the organization is to deter juvenile delinquency among boys. He argued that boys "are five times more prone toward delinquency than girls the same age," and said the Boys' Club attempts to provide more wholesome activities as an alternative.

Later in the afternoon, Bosso called on James Solomon, who is in charge of

records at juvenile hall. Solomon aged that the ratio of boys-to-girls is about five-to-one.

Girls make up some 17-23 percent of the children ages 12-18 years at the hall," he said. The boys make up the balance.

Ms. Poulus asked if there weren't still a substantial number of girls at juvenile hall, and Solomon said yes. She then asked if there were many children who were taken home rather than to juvenile hall, and if a majority of the children turned over to parents were girls.

"I would guess this is true," Solomon replied.

In addition to the four children, the plaintiff attorneys also called for testimony in the morning from James E. Callaghan, executive director of the North San Mateo County Boys' Club.

The clubs he directs, Callaghan said, are among several in the state which operate programs that are open to both boys and girls. Girls have held common memberships with boys at the

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All the water is good— but some is a bit better

By BOB SMITH

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the well water. Tests have been made since for radioactivity with negative results, Johnson said.

The district operates two wells in the Opal Cliffs area. Opal Cliffs No. 1 shows a total water hardness of 347; iron of .61 parts per million (ppm) and manganese of .51 ppm.

Opal Cliffs No. 3 tested with a total hardness of 327; iron, .95 and manganese, .37.

Johnson said the two wells are now filtered by an iron and manganese removal system that supplies water with less than .02 ppm of iron and manganese. Federal standards are less than .05 ppm manganese and 0.3 ppm of iron.

The district has let a con-

Rio del Mar, show a hardness of 174, iron of .174, and manganese of .01 ppm.

In Seascape, hardness of 157, iron of .157, and manganese of .01 ppm.

Two wells in the La Selva Beach area show a hardness of 157, iron of .157, and manganese of .01 ppm.

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Girls can join Boys' Club

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South San Francisco Club for about five years, he said, and the admission of girls has neither harmed nor significantly changed the program.

There are also similar programs in Novato, Hayward and Pittsburg. The Boys' Club in northern San Mateo County opened to girls because the board of directors saw the need to provide girls with similar services, Callaghan said, and the club included girls voluntarily. There was no public pressure.

Bosso asked the director several questions about staff, facilities and funding for the San Mateo County programs, and then inquired about the increase in membership when girls were allowed to join.

Callaghan said the girls boosted the membership from about 1,200 to 1,500 children. Approximately 250-300 of the present membership is female, he said. eadditional staff was hired when girls were allowed to join, and there was also a jump in revenue.

Lawrence E. Donatoni, executive director of United Way of Santa Cruz County, was asked by Ms. Thompson about the United Way fund-raising campaign, how the funds are acquired and then allocated to the various organizations.

This year, Donatoni said, the Boys' Club asked for \$22,300 but was granted only \$18,000 because it would otherwise appear to have a surplus in funds after the United Way grant was given. He later added that United Way directors were confused about the Boys' Club budget, and there was actually a contingency fund that absorbed the additional funding but had not been included in the budget.

Donatoni also said he was not aware of any other kind of

facility in Santa Cruz that offered the same kind of services as the Boys' Club.

After lunch, the defense attorney made a motion for judgement from Judge Cottle.

"Civil Code 51 has only applied to businesses," he said, "The plaintiffs have attempted to bootstrap language about public accommodations onto Code 51."

The legislature intended a broad interpretation of language referring to "a business of any kind," in the Unruh Act, Bosso added, but the court cases have so far all included some sort of commercial enterprise.

"Never, never in the history of California has this ever been applied — under any definition you can think of — to the Boys' Club," the attorney said.

Bosso and Ms. Thompson then debated similar court cases in other states which involved the nature of either businesses or organizations.

Judge Cottle denied the motion for judgment, and said it would be difficult for him to rule on language in the Unruh Act when he has not yet had the opportunity to review all the cases which pertain to the Boys' Club suit.

Among those called to testify for the defense were Bill Fankhouser, executive director of the Santa Cruz Boys' Club, and Mrs. Ruth Mallory, who contributed funding along with her late husband for the establishment of the Santa Cruz organization.

Fankhouser said the local organization had its highest membership in 1969 — its first year — when some 2,100 boys joined. However, the demand on the facilities was too great, he said, and membership was barred to those over the age of 15 years. Younger boys attended in shifts.

The director said it was because of dissatisfaction with the arrangements and tight space that the membership fell to 1,207 boys by 1970. It has remained fairly constant since.

Fankhouser also testified about problems he anticipates if girls are admitted. There would have to be building modifications to provide separate changing facilities,

and at least one additional staff person would be required.

"If a substantial number of girls were admitted now, would you be able to continue the present program?" Bosso asked.

Fankhouser answered that some services to the boys would be discontinued in order to provide for girls.

Although the plaintiff attorneys argued that Fankhouser's statements were not pertinent to the interpretation of the Unruh Act, Bosso said the testimony was needed to help establish that the exclusion of girls is not arbitrary.

Mrs. Mallory's testimony was heard for the same reason. She said she and her husband contributed the trust to help establish a program for boys, and this had always been their intent.

Her most recent contribution was a \$200,000 donation made last year — under a condition that the Boys' Club remain open to boys only.

A member of the club's board of directors since it opened a decade ago, Mrs. Mallory said the latest grant will revert to her if the doors are opened to girls. She added that she is unwilling to have either the trust fund, or the additional revenue, used to provide or extend the services to girls as well.

Charged with drunk driving

Kathleen T. Quint, 27, of 128 Norman Road, arrested at 12:35 a.m. Saturday at the freeway and Vista Point by highway patrolmen.

Richard Henry Aubrey, 33, of 8064 Valencia St., Aptos, arrested at 2 a.m. Saturday on Center St. in Santa Cruz by police. Aubrey also was charged with hit-and-run property damage.

Humberto Barboza Brambila, 20, of 1391 Green Valley Road, arrested at 11 a.m. Saturday at Freedom Blvd. and Corralitos Road, arrested at 11 a.m. Saturday at Freedom Blvd. and Corralitos Road by highway patrolmen.

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