

High court to hear Boys' Club suit

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SANTA CRUZ — The state Supreme Court agreed Thursday to decide whether the local Boys' Club must open its doors to girls, or if it can remain exclusively male.

No date has been set to hear the appeal. The decision could have profound effects on private clubs and non-profit organizations that restrict membership to one sex.

Five Santa Cruz youngsters are challenging the club rule barring girls. They are: Naomi Goldfrank, 14; Victoria Ibister, 13; Paula Smith, 13; Zachary Wormhoudt, 13; and Michale Frick, 14. The boys are club members.

Boys' Club spokesmen say the appeal in the 3½-year-old case was expected. Susan Popik, one of the San Francisco attorneys representing the plaintiffs for the American Civil Liberties Union, said this morning she is "delighted" the court will hear the appeal. Popik said she is "optimistic they intend to reverse" a previous ruling upholding the club's policy.

The state Court of Appeal last June overturned a decision by Santa Cruz Superior Court Judge Chris Cottle that girls should be admitted to the club.

The 2-1 appellate court decision says California's anti-discrimination laws do not apply to private, non-commercial groups.

The Supreme Court decision will be breaking new legal ground; there are no rulings to follow on the issue. When the appeals court ruled in June, it said it based its ruling primarily on the legislative history of the state's 1959 Unruh Civil Rights Act.

The first version of the law banned discrimination by public or private groups, organizations, businesses, schools and public facilities. But the final version applied only to "all business establishments."

The appeals court said this indicated the Legislature did not intend the bill to include private clubs and non-profit organizations that restrict membership.

The law, it said, "does not apply to non-commercial entities, such as

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charitable, volunteer and community service agencies, fraternal societies, clubs and organizations that serve particular religious, ethnic or cultural groups."

Boys' Club Executive Director Bill Fankhouser says the club is not a business establishment, but a private, non-profit organization. And Fankhouser, father of a daughter, says there is no place for girls in the organization.

"From the very beginning this has been a boys' club," he said this morning, "and its primary purpose is to serve boys. Anything less than that is a betrayal to those who have contributed to it."

He went on to say "boys tend to need the kind of services we offer more than girls. They tend to be emancipated from the household much sooner than girls, so as a consequence, we feel there needs to be someplace where they can come . . . and have the opportunity to develop their skills and interests. I personally

maintain there is a difference between boys and girls, and they have to learn to relate to their own sexes as well as the opposite sex, and this is the way to do it."

Attorney Popik said she "disagrees with the underlying premise that boys need this kind of facility more than girls. . . . Any difficulty boys have in socializing are not assisted by not communicating socially with 50 percent of the population.

She said the club is not a private organization, but "a broad-based community organization that discriminates against half the population."

Boys' Club Attorney Bob Bosso said Thursday the state Supreme Court has been "broadening the Unruh Act, but there are more dissensions (from the justices) with each decision."

The court has recently ruled apartment complexes and condominium homeowners' associations are businesses. Those cases involved age discrimination, Bosso said.