

# Can landlords skirt child discrimination ban?

by Martin Frank

The proposed ban on discrimination against renters with children will go a long way towards ending the practice, according to housing activists from Bay area cities with similar laws. But they also warn that it will not stop landlords who are intent on excluding children from their buildings.

Approved on its first hearing by a five to two vote of the Santa Cruz City Council on May 5, the ordinance prohibits discrimination in housing on the basis of pregnancy or because the renter has children. The council also decided to drop from the ordinance a provision which allowed for criminal prosecution of violators.

The second and final hearing on the ordinance is scheduled for May 26.

Exempted from the law are senior citizen residences and apartment buildings of five or more units where a majority of tenants indicate in writing that they wish to limit their complex to adults.

A similar law, passed in San Francisco in 1975, aided renters with children by giving them leverage in their dealings with landlords, according to David Moon, San Francisco District Attorney. The threat of being brought to court is an effective device when used against law-abiding landlords, Moon said.

"But if a landlord is intent on doing it," Moon noted, "he could work his way around the best-written ordinance."

Brad Macdonald, a spokesperson for the Santa Cruz Board of Realtors, suggested an example of how a landlord can ignore the law.

"They could insist that everybody who wants to rent come up and see the apartment. Then, if they see a person with kids, they just say that it's rented."

Although Macdonald believes that most property owners will comply with the law, he thinks that the Santa Cruz housing shortage will limit the law's effectiveness. The abundance of people in need of housing will allow landlords to continue to choose from a long list of applicants, he said.

Tina Hogan, spokesperson for the Housing Rights for Children Project in Berkeley, thinks that the city council's decision to drop a provision that allows for criminal penalties against violators will weaken the ordinance.

With criminal penalties, the city attorney is responsible for prosecuting violators. The attorney's office can also intervene as a mediator between a renter and landlord.

In San Francisco, the mediation process has often been successful in resolving discrimination complaints, said David Moon. Over the last year, his office has brought only four cases to court, solving most of them before they went to court. Without criminal penalties the law allows for civil actions in small claims court with fines ranging between \$250 to \$750.

In Berkeley and Oakland, where similar bans are in effect, Hogan says that house-hunters just don't have the time for lengthy civil actions.

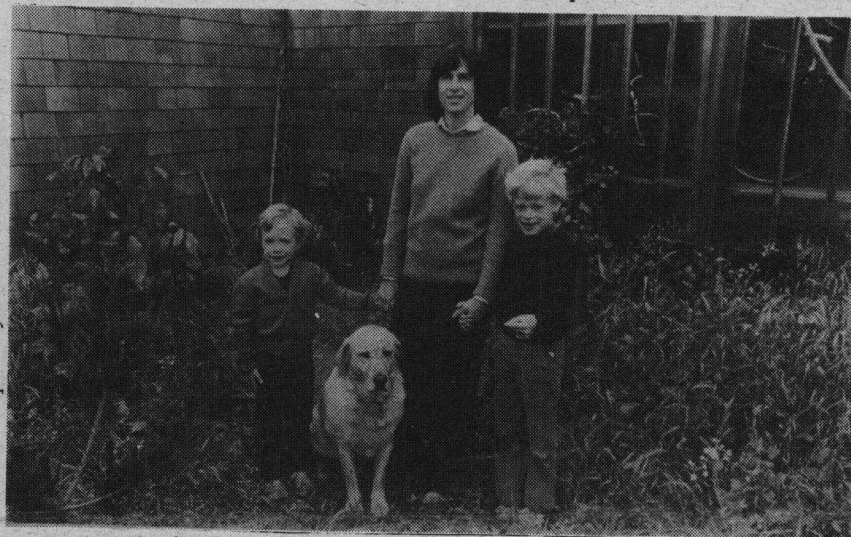
"When you're looking for a place, [small claims court] requires more energy than you have," Hogan said. "I have counseled many people to go to court, but very few have gone through with it."

The city attorney's office supported dropping the criminal sanctions because civil actions are much easier to win, Associate Attorney Neal Anderson explained. Small claims court requires only sufficient evidence that a violation occurred, he said, while a criminal prosecution must prove a case beyond a reasonable doubt. To prove discrimination, the city attorney would have to hire private investigators, Anderson continued.

Opposition to the ordinance came from

will force landlords to pay more to repair their apartments, he said, and will require higher insurance premiums.

David Cone, a spokesperson for the Santa Cruz Housing Action Committee, feels that the ordinance doesn't go far enough. The law approved by the city council is essentially the same as that proposed by SCHAC last March after a telephone survey they conducted indicated that over 50 percent of all rentals advertised in the *Santa Cruz Sentinel* were not open to families with children.



*This family, now homeowners, once had difficulty renting because of the children.*

Mayor Joseph Ghio and Councilmember John Mahaney. Ghio attacked the proposal as "reverse discrimination" and warned that the ordinance might cause a problem "where there may well be one of little consequence." Mahaney said the ordinance will only exacerbate the housing shortage because landlords will withdraw rental units from the market when faced with increased regulation.

According to Brad Macdonald, the Board of Realtors opposed the law because it does not believe child discrimination to be sufficiently widespread to warrant the ban. For those property owners who refuse to rent to families with children, the board prefers an educational program, Macdonald said.

Macdonald also predicted that the ordinance will raise rent levels. Child tenants

In contrast to the SCHAC proposal, the ordinance allows a complex of five or more units with below-code soundproofing to exclude children if a majority of tenants indicate such a preference.

SCHAC opposed the provision because it believes that people with children should not have to stand before a jury of peers, Cone said. He also predicted that, without a secret ballot, many landlords will put pressure on insecure tenants to prohibit children.

Although SCHAC would have preferred a stronger ordinance, Cone says that the organization welcomes any law which further recognizes tenants' rights.

"We have no illusions that the law will eliminate all discrimination," Cone explained. "But it is a step towards realizing that housing is a community resource." ✓