

## Validity of sex offender residency restrictions under fire again

*Suit against Arcadia says exclusion zones made it impossible for plaintiff to find housing*

By L.J. Williamson

The constitutionality of sex offender residency restrictions is under further scrutiny in Arcadia following a lawsuit filed Monday by attorney Janice Bellucci, president of California Reform Sex Offender Laws.

The suit, which comes months after the state Supreme Court ruled that blanket residency restrictions in San Diego County were unconstitutional, is the first in what Bellucci promised to be a "series" against Los Angeles County.

"They have terrible residency restrictions which we've estimated prohibit registered citizens from living in 90 percent of the city," Bellucci said of Arcadia. "We definitely think that given the state Supreme Court's decision in March, that what they're doing is unconstitutional."

The suit alleges that Arcadia's municipal "residential exclusion zones," made it impossible for the plaintiff to find housing in the city, in part because the city failed to make public any list or map of the facilities that make up these exclusion zones. The exclusion zones include not only parks and schools but also school bus stops, public libraries, swimming or wading pools, commercial establishments that provide a children's playground, and locations that facilitate classes or group activities for children.

In March the California Supreme Court determined that blanket residency restrictions in San Diego County, which are enforced against all registered sex offenders on active parole regardless of the nature or individual circumstances of the crime, were unconstitutional.

The court's decision, however, noted that the California Department of Corrections retained the statutory authority to impose special restrictions on registered sex offenders, including residency restrictions that were based on "the particularized circumstances of each individual parolee." *In re Taylor*, S206143 (Cal. 2015)

Proposition 83, commonly known as "Jessica's Law," spurred the creation of city- and county-level residency restrictions by municipalities that sought to avoid having their regions become "dumping grounds" for sex offenders. Following the court's March decision, the CDCR discontinued issuing blanket residency restrictions for parolees statewide.

"Assuming the people in Arcadia are suffering from the same restrictions [as San Diego] and have the same concerns, I think the suit will be very successful," said Alex Simpson, adjunct professor at California Western School of Law. "There isn't anything unique about the [San Diego] suit - all of the same reasons why the court found this was not constitutional apply to anybody who's in a similar situation."

Simpson also pointed out that the Supreme Court decision hinged on testimony from law enforcement officers who argued that residency restrictions made sex offenders more difficult to track. "There isn't any evidence that these restrictions promote public safety," Simpson said, "and there is a lot of evidence that it is harder to track individuals that are under such residency restrictions because they're essentially transient."

Arcadia City Manager Dominic Lazzaretto said that the city updated its sex offender regulations in September in response to "several recent court rulings on the subject."

"Our intent has always been to ensure the safety of all of our residents while remaining within the bounds of the law and respecting applicable civil liberties," Lazzaretto said, providing no further comment.

Bellucci said the ultimate goal is to eliminate residency restrictions for sex offenders, which she prefers to refer to as "registered citizens." Her organization's website argues that while sexual abuse is never acceptable, neither are "policies that paint all sex offenders with one broad brush." Instead, "each offense must be judged on its own merits with a punishment that fits the crime and does not waste taxpayer dollars."

In June, Bellucci filed suit against the city of Grover Beach in San Luis Obispo County over its municipal residency restrictions. *Frank Lindsay v. City of Grover Beach, et al.*, 15cv04577 (C.D. Cal., filed June 17, 2015)

Bellucci said that the Grover Beach City Council in its August 3 meeting approved the proposed settlement which includes repeal of their residency restrictions and payment of attorney fees.

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