

Owners Sue Condo Association Over Condo Rules Restricting Co-ed Swimming

Several [condo owners in New Jersey](#) have commenced a lawsuit against the community association after it instituted rules that restrict mixed-gender swimming in the association's pool.

The majority of the unit owners are Orthodox Jews, whose faith prohibits men and women from bathing together. In order to accommodate the religious owners, the community association implemented rules that allow mixed-gender swimming only on Saturdays, which is the Jewish Sabbath, and for two hours daily on the other days between 1:00 pm and 3:00 pm.

The plaintiff owners claimed that the pool rules are discriminatory and are in contravention of the federal Fair Housing Act and the New Jersey Law Against Discrimination. They commenced the lawsuit after they were fined by the association for swimming during the hours reserved for the opposite sex.

A letter from the condominium association to the owners indicated “. . . *we are well within our rights to serve the vast majority of the community. You are inconsiderate of the majority and wish for minority rule. That is not our community.*”

On the other hand, the plaintiffs' lawyer took the position that the pool rules were “*the institution of religious law by a secular governing body (the Board) of a secular entity (the Association) in a secular community*”.

A hearing is set for November 4, 2016. It will be interesting to see how the court deals with this issue.

Condominium living requires compromises. Board members are often challenged with balancing the competing interests of all of the unit owners, and some board decisions will not please all of the owners. In Ontario the Condominium Act, 1998 requires that all directors must act honestly and in good faith and exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. In doing so, this can assist the board in defending any potential accusation that they have unfairly disregarded the interests of some owners.