

# Natomas couple settle long, bitter dispute with homeowner association

A retired South Natomas couple who accused their homeowners association of denying the husband, a disabled former Marine pilot, access to the community pool have settled the case for a six-figure sum – provided they move out.

The parties signed the settlement earlier this month, two years after Allen and Cynthia Campbell filed a complaint with the state Department of Fair Employment and Housing saying the Sonora Springs Homeowners Association had illegally discriminated against Allen Campbell by not fixing the pool's broken chairlift despite his complaints starting in 2011.

The case was a rare instance in which residents successfully challenged a homeowners association, which tend to have inordinate power compared to individual homeowners, experts said. HOA boards can levy fines and assessments, seize property and take other measures against homeowners who don't pay or disobey the rules.

While HOA dues pay for law firms and professional property managers, homeowners who want to fight the board's authority usually have to hire and pay for their own lawyers, which is prohibitively costly for most. In this instance, state housing officials intervened, and the Campbells won \$109,000 as part of a mediated settlement.

"Homeowners should be encouraged by the DFEH ruling and the size of the damages in this case," said Marjorie Murray, president of the Center for California Homeowner Association Law in Oakland, an advocacy group for HOA residents. "Both the ruling and the penalty send a clear message to homeowner associations like Sonora Springs ... that they have a legal obligation to comply with state and federal fair housing laws protecting the disabled."

About one in four California residents lives in a community governed by a homeowners association, where an elected board of residents oversees upkeep of common areas and enforces regulations about home colors and parking. Despite the prevalence of HOAs, there is no government entity that regularly oversees them. Occasionally a state agency with special oversight – in this case housing discrimination – steps in.

The department's summary of the settlement, written by a staff attorney and provided to The Sacramento Bee, supports the Campbells' contention they were retaliated against for complaints against their HOA, including questions about the association's finances that they say were never answered.

Allen Campbell, who once sat on the HOA board, said the association seized a home for \$3,500 in unpaid assessments but never accounted for proceeds from its sale. He said he wasn't allowed to inspect the association's bank statements, as other board members were, and that he subsequently told the FBI and other government agencies about the funds he thought were missing.

He resigned from the board in protest in 2011. After that, he said, the HOA ignored his repeated requests that the broken pool lift be fixed so he could use it.

"Mr. Campbell was a former HOA board member who had a falling out with the HOA and filed complaints to various governmental agencies against the HOA and OMNI (Community Management)," the department's summary said. "This very likely explains the HOA's and OMNI's treatment of Mr. Campbell and their failure to fix the chairlift ..."

Lawyers for Sonora Springs and OMNI, the HOA's property management firm with offices in Orangevale, did not respond to requests for interviews. In prior letters and statements, board members and attorneys described the Campbells' behavior as harassment.

The Bee first wrote about the Campbells' case in July 2013, after the couple were fined, disciplined and denied homeowner privileges by the Sonora Springs HOA and its attorneys. The association oversees a 192-unit subdivision of newer homes near Interstate 80 and Truxel Road.

As part of what the Campbells described as a campaign of retaliation, an association lawyer – Darren Bevan with the Sacramento firm of Baydeline & Jacobsen – wrote a letter in March 2013 telling them they weren't homeowners, and had no association privileges, apparently because they purchased their home with a veterans' loan that transfers title only when the buyer repays it.

In response, the California Department of Veterans Affairs wrote a letter on the Campbells' behalf explaining that they were the "purchaser and homeowner" of their property and enjoyed all the rights and responsibilities of ownership with regard to the HOA.

In August 2013, after The Bee's story ran, the association's lawyers acknowledged the Campbells' rights as homeowners and their HOA privileges were reinstated. That included use of the neighborhood pool, but Allen Campbell said when he tried to use it in the past two years, he experienced stress, injury and humiliation.

Campbell, 77, is a former U.S Marine pilot who is 100 percent disabled from his military service. As a civilian, he helped save nuns and orphans from the genocide in Rwanda in 1994 and later was called a hero by Rwandan officials. For a number of years he's been in ailing health, including recent hospital stays for heart trouble.

Campbell said he needed to be able to use the pool to exercise his limbs, withered from nerve damage he suffered in a jet crash, but the chairlift that allowed him to enter the pool remained broken for years despite his repeated requests to the HOA to fix it.

When it was eventually fixed, Campbell said he was forced to retrieve a battery from a locked storage area and install it each time he wished to use the pool lift, but he wasn't able to perform that task because of his physical limitations.

"One of the meanest things they've done so far was to pull a deal like that," he said Monday.

On one occasion, Campbell said his foot became stuck between the lift's footrest and the pool wall, causing him excruciating pain and leaving him stuck without help. A shaky cellphone video he shot documented his ordeal.

Part of the settlement agreement allows the Campbells to sue the association for personal injuries, and they said they might still pursue that option.

The settlement requires the association to take steps to fix the pool lift and to ensure that disabled residents have access to community facilities.

In a written statement, Kevin Kish, director of the state Department of Fair Employment and Housing, said: "The settlement requires property repairs in consultation with a certified access specialist as well as fair housing training, which we think will go a long way in creating an environment free from discrimination."

Another provision of the settlement, agreed to by the Campbells, requires them to move before receiving full payment. Their home was listed for sale as of Tuesday.

Cynthia Campbell said the couple plan to stay in the Sacramento area but won't buy another home that's part of a homeowners association.

"Never again," she said. "People do not understand the power HOAs have. They think it's just lawn maintenance and the pool. They have way too much legal power. You're walking into a trap."

<http://www.sacbee.com/news/business/real-estate-news/article36240330.html>