

Illegal Eviction Fight Ends With Big Payday for Couple

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The Recorder
November 9, 2001

A wrongful eviction suit on behalf of a mentally disabled couple has settled for a half-million dollars, \$190,000 of which goes to the nonprofit legal firm that represented the couple.

Susan Lee of the East Bay Community Law Center said the settlement was one of the biggest of its kind -- in which the recipient gets to remain in the dwelling at issue -- that she can remember.

Tracy and Pearl Wiley have lived in the Berkeley triplex for nearly 30 years, but conditions deteriorated to a point where it was "impossible for them to live there," Lee said.

Two years ago, the toilet in the apartment above Tracy and Pearl Wiley's bedroom broke down and sent raw sewage raining down into their unit, Lee said.

After the toilet broke down, the Wileys moved out some belongings and split their time between the apartment and a trailer, while waiting for the owners to make repairs.

Instead, Lee said, the landlords accused the couple of abandoning the unit and locked them out in October 1999.

Talks between Lee and the landlords' attorneys failed. She later filed two lawsuits -- an unusual step for the nonprofit.

Two new owners, Jesus Ortigoza and Rigoberto Velasquez, bought the apartment in 1999. Eventually the building went into foreclosure and was bought by Oakland-based Bay Area Foreclosure Investments. After the company bought the building, Ortigoza and Velasquez were still responsible for the litigation, Lee said.

Calls made to Ortigoza and Velasquez's attorneys, including Paul Mileck of Berkeley, were not returned.

"It's our mission to keep people housed. In an affirmative suit, [plaintiffs] are usually looking for money," she explained. Those cases don't always assure that the clients get to stay in their homes.

In one of the suits, now-retired Alameda County Superior Court Judge Jennie Rhine granted Lee's summary judgment motion, which allowed the Wileys to stay in the apartment.

In the second suit, the couple alleged that they were wrongfully evicted, locked out and suffered from emotional distress. Lee added personal injury allegations later because Pearl Wiley contracted double pneumonia while living in the trailer. She was comatose and nearly died from the illness, but eventually recovered, Lee said.

Both sides decided to head into settlement negotiations, which were mediated by retired Alameda County Superior Court Judge Mark Eaton. In April, the owners agreed to pay \$500,000, Lee said.

After the settlement was approved, it took additional months to tie up other loose ends such as setting up a special trust for the couple since they both receive SSI. Now, the Wileys have their money, Lee said.

The biggest victory is that the Wileys stay in their apartment, said Lee.

"Not only did they get the half million, they retained possession," she said.