

2002

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Recommended Citation

Jessica Hunter, *Eviction Suit Settlement Sets Precedent for Battered Women*, 7 Pub. Interest L. Rptr. 15 (2002).
Available at: <http://lawcommons.luc.edu/pilr/vol7/iss3/11>

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NEWS

EVICITION SUIT SETTLEMENT SETS PRECEDENT FOR BATTERED WOMEN

By JESSICA HUNTER

C.B.M., a property management group in Oregon, has recently agreed to a settlement in a federal lawsuit arising from the eviction of one of its tenants, a battered woman, Tiffiani Alvera. *U. S. & Alvera v. C.B.M. Group, Inc.*, 01-857-PA (1999). The basis for the eviction was a breach by Alvera's husband of a zero-tolerance-against-violence clause in Alvera's lease; a term that C.B.M. argued was permissible under Oregon law. The lawsuit was brought on Alvera's behalf by the U.S. Department of Housing and Urban Development and various public interest law centers who describe the settlement as a victorious precedent for battered women.

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— Wendy Pollack,
National Poverty
Law Center

In the last 10 years, zero-tolerance policies have become prevalent in both private and public housing throughout the United States. The most common policies prohibit drug-related activity on the tenant's premises. In the event of a breach by any member of the

household or guest, all occupants may be evicted.

Earlier this year the Supreme Court of the United States, in *Oakland Housing Auth. v. Rucker*, had the opportunity to review such policies in publicly subsidized housing. *Oakland Housing Auth. v. Rucker*, 122 S.Ct. 1230 (2002). In upholding the constitutionality of no-fault evictions arising from such policies, the Court noted that a tenant who "cannot control...criminal activities by a household member which threaten health or safety of other residents, is a threat to other residents." *Id.* at 1235. Policies that specifically prohibit violence, such as the one in Alvera's lease, mandate that all members of a household – including the victims themselves – are subject to eviction in the event of violence on the leased premises.

According to her complaint, Alvera was served with a 24-hour eviction notice after she informed her landlord that she had obtained a temporary restraining order against her husband, who had recently physically assaulted her in their apartment.

National women's rights activists involved in Alvera's suit decried the zero-tolerance policy as particularly cruel to victims of domestic violence and charged that its application to such victims is sex discrimination in violation of the Fair Housing Act. The overwhelming majority of domestic violence

victims are female and their abusers are typically their intimate partners. In fact, victims of domestic violence have trouble finding apartments because they may have poor credit and rental and employment histories due to their abuse.

C.B.M. justified its zero-tolerance policies on the same grounds as the Supreme Court in *Oakland Housing Auth. v. Rucker*, citing the need to protect the living environment of all its tenants.

Other critics of the suit question whether the zero-tolerance policy is truly sex discrimination. Although women are disproportionately victims of domestic violence, they claim that men are also victims of such abuse and that the arrests of female perpetrators of domestic violence are rising. Wendy Pollack of the National Poverty Law Center notes, "There has certainly been more reporting of domestic violence against men, but the overwhelming majority of these victims are female." She acknowledges however that sex discrimination may not be the best legal theory with which to attack these policies. She suggests we "should look at it from the stance of the 'innocent victim', which would also protect children who are often victims both of violence in the home and subsequent eviction under the zero-tolerance policy."

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