

# Kimball, Tirey & St. John LLP

## Legal Alert

February, 2010

### Sex Offender Case Decided by Supreme Court

On February 1, 2010, the California Supreme Court released its ruling in a case involving Jessica's Law (Penal Code Section 3003.5). Jessica's Law was passed by California voters on November 7, 2006. The intent of the law was to help people better protect themselves and their children from sexual predators by prohibiting registered sex offenders from residing within 2000 feet of any school or park where children regularly gather.

This case was brought by four registered sex offenders who were charged with violating Jessica's Law, which was a violation of the terms of their parole. They challenged Jessica's Law on several grounds, including claims that the imposition of Jessica's Law was unlawful because it was being applied retroactively as punishment for crimes that were committed prior to the effective date of the law. The Supreme Court found that the imposition of the law as to these four persons (and anyone else similarly situated) was not unlawfully retroactive because, although their crimes were committed prior to the effective date of the law, their release from prison and their paroles all took place after the law became effective. In making this ruling, the court also confirmed that Jessica's Law cannot be imposed on any sex offender who was released from prison, paroled or put on probation prior to the effective date of the law because to do so would constitute an unlawful retroactive application of the law.

What this means for residential rental property owners and managers is that there may be registered sex offenders living in rental property that is within 2000 feet of a school or park where children regularly gather who are not subject to the provisions of Jessica's Law. If you think that a registered sex offender who is covered by Jessica's law is living on or is applying to live at your property, you may want to call local law enforcement and make a report. It appears from this court opinion that the California Department of Corrections is enforcing Jessica's Law with regard parolees who are covered by the law, but that local law enforcement agencies may each have their own policies regarding how and/or when they enforce the terms of Jessica's Law.

The court did not rule on the other claims brought by the petitioners in this case. These claims were that the law is a vague, unreasonable and overbroad parole condition that infringed on a number of their fundamental constitutional rights. The court sent these claims back to the trial courts for further evidentiary hearings.

***Kimball, Tirey & St. John's fair housing department regularly counsels their clients on fair housing and past convicted sex offender issues. For questions about this Alert, please contact us at 800-338-6039 and ask to speak to attorney Lynn Dover.***

---

*This legal alert is for general information purposes only. Before acting be sure to receive legal advice from our office. If you have any questions about this alert, please contact the nearest KTS office in your location. For past alerts and articles on other related topics, please consult the resource library section of this website.*