

This is a printer friendly version of an article from the **Daily Record**
To print this article open the file menu and choose Print.

[Back](#)

10/12/06 - Posted from the Daily Record newsroom

Montville condo association accused of discrimination

State civil rights agency sides with disabled couple in dispute over their dogs

BY PEGGY WRIGHT
DAILY RECORD

The state Division on Civil Rights has filed a lawsuit against the Longview at Montville condominium association, alleging it is discriminating against a handicapped couple by insisting they remove the invisible fence that keeps their two dogs in a yard at their condo. The couple are too infirm to walk their pair of Schnauzers.

In a lawsuit made public Wednesday in Superior Court, Morristown, division Director J. Frank Vespa-Papaleo asks a judge to find that the association violated the state's Law Against Discrimination by failing to provide Leslie and Doreen Milner with a reasonable accommodation for their handicaps. He asks that the Milners be allowed to maintain the underground, invisible fence behind their condominium and receive punitive damages and counsel fees.

"I'd gladly switch places with anyone so we could walk our dogs," said 64-year-old Doreen Milner, who has lived at Longview since 1996 with her husband Leslie, also 64. "These are supposed to be my neighbors -- one helping the other."

Association view

Attorney David J. Byrne, who represents the condominium association and its management company, Taylor Management, said the association has been exceedingly reasonable in trying to accommodate the Milners. He said the invisible backyard fence is on common property that is owned by all condominium occupants. While the fence may keep the dogs confined in a certain area, it does not block children and others from walking on the grass and being nipped or jumped on by the dogs, he said.

Byrne said a proposal by the association's board of trustees to let the Milners install invisible fencing around their patio was turned down, as were suggestions they hire dog-walkers.

"We offered compromises to avoid a lawsuit. It's uncomfortable for a community to be stuck in a lawsuit. We know the law against discrimination imposes a burden but it doesn't say that if you're disabled you get to do whatever you want. They're not offering any compromises," Byrne said of the Milners.

The Milners in 2000 got two small Schnauzers -- Buttons and Bows -- from an animal rescue facility. Doreen Milner said she knows there are stringent rules at the 400-unit condominium complex that she accepts but said she got verbal permission to install an invisible fence around her backyard from the president of the association's board of trustees in 2000.

Couple's conditions

Doreen Milner said she uses a pacemaker, has undergone surgeries on her spine and knee, and physicians say a fall could have potentially life-threatening consequences for her. Her husband has multiple sclerosis and fell at least twice when he lost his balance walking the Schnauzers. The dogs are therapeutic to him in that they keep his depression at bay, his wife said.

The lawsuit said that board of trustees Vice President James Wiley, in 2005, complained that the Milners installed the underground pet control wiring on common property in violation of Longview's master deed. The association's investigation found that prior written consent of the board was not given and express permission for the installation was not granted by the development's rules and regulations.

Related news from the Web

Latest headlines by Topic:

- [Health](#)
- [Multiple Sclerosis](#)
- [Medicine](#)

Powered by [Topix.net](#)

Advertisement

The association's judicial committee, which meets to resolve disputes, last year found the Milners were in violation of the master deed and told the couple to seek an exception from the board of trustees.

Their request was turned down, though the couple said they supplied documentation of their medical conditions that precluded them from dog-walking.

The couple was told in June 2005 they would be fined \$100 per day until they removed the fence -- a threat that Doreen Milner said was later canceled.

Going to the state

The Milners contacted the state's civil rights division, which investigated and found "probable cause" that violations of the LAD occurred, Vespa-Papaleo said Wednesday. He said evidence supports the Schnauzers serving as therapy, or service-type dogs, to Leslie Milner. Byrne said this assertion was not raised before and that he would oppose the service dog notion as a reason for letting the couple keep the fence.

Doreen Milner said she suspects the insistence on digging up the fence is payback for some egos she bruised when she served several years ago as an association trustee and raised questions about how money was spent.

"I know when you live in a condominium that you're going to have to follow rules," she said. "But we are not people who are saying we are better than others and that we don't have to walk our dogs. This is merely spite."

Peggy Wright can be reached at (973) 267-1142 or pwright@gannett.com.
