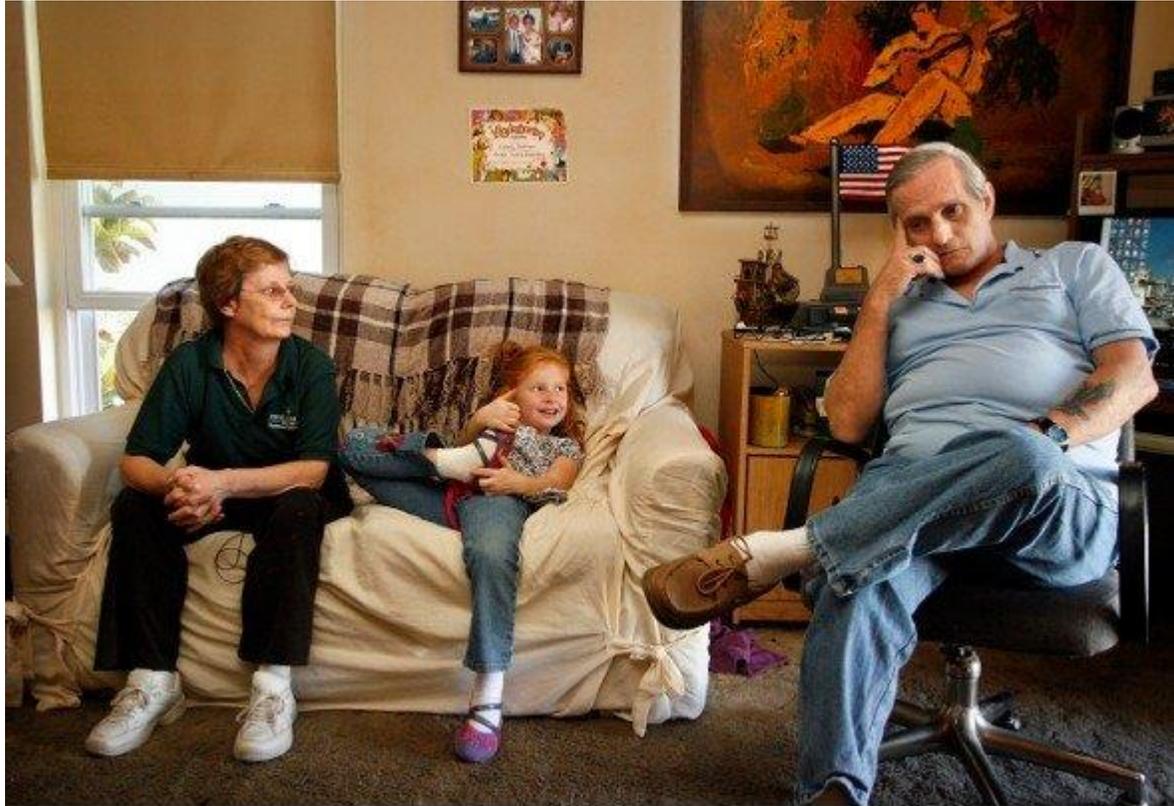


The Minor Threat: Age-Restricted Communities Evicting Children

Stefanos Chen Jan 6th 2012 6:00AM
Updated Jan 6th 2012 8:58PM
040610114



Douglas R. Clifford, Times/ZUMA

At 6 months old, Kimberly Broffman faced eviction.

It wasn't because her grandparents couldn't afford the home where she lived -- they were current on the mortgage. And it had nothing to do with her mother's run-ins with the law; she was welcome to stay, too. The only *persona non grata* was the infant, and she had to leave soon.

The reason: Kimberly's grandparents -- and primary caregivers -- live in an age-restricted community, where minors are treated more often as vagrants than visitors.

Judie and Jim Stottler (pictured above with Kimberly), who belong to the Lakes Homeowners Association in Clearwater, Fla., have been in and out of court to keep Kimberly in their home since she was 3 years old, though the community board first raised objections when Kimberly was just an infant. She's 8 today.

The couple gained legal custody of Kimberly because her mother had a history of substance abuse. The father remains unknown. Without her grandparents, Kimberly would likely be placed in foster care.

But when the community board discovered that the child was living year-round with her grandparents, they issued an ultimatum: Remove the child or sell the house within 18 months.

"Throwing the child out would be throwing us out," Judie Stottler, 64, told *AOL Real Estate*. "People end up losing their homes because they won't lose their children."

The Stottlers are hardly alone. As the economic downturn bears down on families, an increasing number of grandparents are stepping in to raise their grandchildren, and it's presenting a host of complicated issues, both legal and ethical, particularly when it comes to senior housing.

A Major Problem With Minors

At the Sun City Community Center near Tampa, Fla., one of the oldest age-restricted communities in the nation, the problem is growing.

Ed Barnes, president of the board, said that he's discovered 10 cases in the past six months in which children were found to be living with relatives -- one of the most basic violations of age-restricted communities' bylaws.

But Barnes doesn't relish the thought of kicking children to the curb.

"Certainly the main reason is the economic downturn, coupled with personal tragedies," he said of the influx of youngsters. "People are getting divorced and have no alternative, no job, and have to find some place for the kids to live."

With a national unemployment rate of nearly 9 percent and millions of Americans still struggling with upside-down mortgages, it's not surprising that there are more multigenerational households these days. Yet bending the rules for even one child could land an age-restricted community in hot water.

Legal and Financial Consequences

"Age restriction is a fundamental part of what makes up that community," said Michael Gelfand, a West Palm Beach-area attorney with experience in community association disputes. Putting aside residents' attitudes about young children, sheltering minors could put the community under serious financial duress.

The Fair Housing Act, which forms the basis for anti-discrimination law in housing, was amended to include a "familial restriction" that essentially validates senior communities' right to prohibit minors from living there, Gelfand said.

Up to 20 percent of residents in age-restricted communities can be under the set residency age, but these arrangements are largely used to accommodate adult children who inherit property. The rule is never used to accommodate minors, however, and if a community is found to exceed the 20 percent limit, or selectively enforces the rules, it could lose its exemption status. And that could cause a cascade of adverse effects.

The perception is that "property values are going to plummet," said Rob Freedman, a Tampa-based attorney who's written covenants for several age-restricted communities in Florida. "Because now you have more people coming in ... and because senior citizens are not going to want to live in a community that has kids around."

Moreover, senior communities aren't equipped for children, Freedman said. Swimming pools and other adult facilities will have to be reinsured; lightly used roadways will take a pounding as younger residents move in, creating safety hazards for golf cart-reliant seniors and increased taxes for residents; and mortgage lenders will likely be forced to revise their valuation of the community, making it harder for borrowers to change terms.

For seniors on a fixed income, any number of these changes could lead to hardship. The median listing price in Sun City is \$104,950 as of November, which is down 4.5 percent from last year, according to Realtor.com data. In comparison, the national median list price was \$189,900.

U.S. Census data shows that 5.8 million children under the age of 18 live in grandparent-headed households as of the last decennial survey, up from 4.5 million a decade ago. And while residents in age-restricted communities make up just under a million owner-occupied households in America, [according to the National Association of Home Builders](#), economic hardships are bringing more of these eviction cases to the surface.

A Slippery Slope

The problem isn't entirely new. Take for instance the cautionary tale of Youngtown, Ariz., credited as the first age-restricted community in the nation. In 1996, 16-year-old Chaz Cope moved in with his grandparents in the senior community to escape his abusive stepfather.

Cope's grandparents petitioned the association to allow the teenager to stay with them until he finished high school, but the board bristled.



Photo: Chaz Cope "It was scary. I didn't have nowhere else to go and I definitely wasn't going back to that abusive household," Cope, now 31, told *AOL Real Estate*. (He's pictured left with his 4-year-old daughter.)

But when the story garnered mainstream attention, the Arizona attorney general's office ordered a stay on Cope's eviction and initiated a 10-month investigation of the community. It turned out that the town had improperly sought its age-restricted status and the town lost its exemption altogether, allowing Cope -- and anyone else inclined to live among a majority of seniors -- to move into the community.

"I made it so anybody could live in that community," Cope said, with a measure of pride.

Kids in the Shadows

Cope's story is a sobering example of what's at stake for 55-and-up communities that discover children in their midst. In Sun City Community Center, president Barnes said that he's seen more stowaways lately, but that the problem still only affects a small portion of the 10,000-plus population. But *AOL Real Estate* spoke to residents who claim that there are many children who remain hidden.

"Oh my goodness -- shock-o, shock-o," one resident quipped when informed of the recent discoveries. The homeowner, who asked not to be identified, said that she's seen several children peeking out from behind screen doors in the seven years she's lived at Sun City.

The reasons they live in the shadows are clear to Judie Stottler, whose 8-year-old grandchild has been at the center of controversy since she was an infant.



Douglas R. Clifford, Times/ZUMA The family has been battling to keep

Kimberly since before she could crawl, but has had the services of attorney Rob Eckard for the past 5 years. Eckard, who first read about the Stottlers' case in the local press, came on to defend the family pro bono.

"People who can't afford attorneys end up losing their home because they won't lose their children," Stottler said. Before they had legal representation, the family signed an agreement stating that they would move out of the home within 18 months. "We thought we'd have to sign or we'd be thrown out right then."

But when the housing market went belly up, they were left with little hope of selling. The home was first listed in 2006 for \$250,000, Stottler said -- now it's priced at \$89,000.

Stottler works at a local assisted living home and supports the family entirely on her income. Her husband, Jim, is disabled. She expects to retire this February.

To make matters worse, the community board president, whom the family had dealt with, recently died, leaving their lawyer with the arduous task of restarting negotiations.

But there's hope for them yet. Because the family was granted custody of Kimberly during a separate hearing, Eckard said, there may be grounds for setting up a temporary zoning variance that would allow the Stottlers to keep their home, as well as their granddaughter.

A Case for Revision

The problem with these cases, even when the children are granted admission to the community, is that they're won on technicalities, said Shelley Cutts, a Tempe, Ariz., attorney who studied the Cope case.

State attorneys general sometimes intervene in these cases, "but never have to answer the tough

questions," she said -- namely, revising the laws to include a hardship exemption for families with no other options.

For the time being, however, families like the Stottlers face uphill battles in court, where their best defense is to find flaws in their community's bylaws.

As of Wednesday, Eckard, the family's attorney, said the association was very close to reaching a deal with the Stottlers to allow Kimberly to stay on a temporary zoning exemption. The proposal was very careful to maintain the community's age restricted status, he says -- the offer would only be extended to Kimberly, and no other children found in the community. As of this writing, the community association's attorney has yet to respond to calls regarding the case.

Eckard says he's already been approached by another resident in the Lakes subdivision who is sheltering a minor and fears community reprisal.

"There's people in that community just one event away from being in their shoes," he said.

Until a policy is reached that both maintains age-restricted enforcement and considers extreme family hardship, residents within these communities will continue to have to choose between keeping their homes and housing their kin.

But Stottler said she already knows where she stands.

"Your child is going to come first. That's just the way it is."

Special thanks to Professor Judith Trolander, [whose insights](#) helped inform this article.