

Landlord Potentially Liable for Tenant's Murder!

By George Wallace

The Court of Appeals, in a case out of San Diego, has held that a landlord who failed to replace a missing pane of glass in a tenant's door may be partially liable for the death of an occupant of the apartment killed by an assailant who was able to gain entry by reaching the doorknob through the space where the pane would have been.

After a fight with her boyfriend Jesus Vasquez, Abigail Ramirez moved into an apartment occupied by her parents. The front door of the apartment incorporated a window made of panes of triangular and diamond-shaped glass. One pane had been missing since the parents had moved in. Despite repeated requests, the landlord had not yet replaced it. The empty space had initially been covered with cardboard, later with thin plywood held in place with finishing nails.

Vasquez came to the apartment, angry and wanting to speak with Ramirez. Ramirez refused to let him in. Vasquez pushed the plywood out of the way – (he testified that he would know have risked cutting himself by breaking the actual glass pane) and reached the doorknob. He entered, incapacitated Ramirez' mother and stabbed Ramirez to death. Vasquez was subsequently convicted of murder.

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The heirs of Abigail Ramirez sued the building owners for damages for wrongful death. The owners moved successfully for summary judgment, arguing that Vasquez' conduct had been unforeseeable, and that they had no duty to replace the pane of glass in order to prevent that sort of attack. The Court of Appeals reversed holding that while Vasquez was plainly the principal cause of death, the landlord may also bear responsibility as a result of failing to take simple steps to maintain the window as a "first line of defense."

The appellate court lays out a lengthy history of California law on the duty of landowners to take preventive measures to inhibit criminal acts on their premises. Distilling those cases, the court sets out a three-step test to determine the scope of a landowner's duty:

1. First, the court must determine the specific measures the plaintiff asserts the defendant should have taken to prevent the harm. This frames the issue for the court's determination by defining the scope of the duty under consideration.
2. Second, the court must analyze how financially and socially burdensome these proposed measures would be to a landlord, which measures could range from minimally burdensome to significantly burdensome under the facts of the case.
3. Third, the court must identify the nature of the third party conduct that the plaintiff claims could have been prevented had the landlord taken the proposed measures, and assess how foreseeable (on a continuum from a mere possibility to a reasonable possibility) it was that this conduct would occur. Once the burden and foreseeability have been independently assessed, they can be compared in determining the scope of the duty the court imposes on a given defendant. The more certain the likelihood of harm, the higher the burden a court will impose on a landlord to prevent it; the less foreseeable the harm the lower the burden a court will be placed on the landlord.

Applying this analysis to the case before it, the Court concludes that, "if the facts known to Owners were sufficient to notify them of a slight likelihood that an intruder might seek to enter the apartment, they had a duty to take the minimally burdensome steps available to restore the integrity and security provided by a repaired front door"

Vasquez v Residential Investments, Inc. (May 4, 2004), Case No. DO42575.

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