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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MAYRA DAVILA, et al.,	)	Case No. CV 12-08176 DDP (VBKx)
	)	
Plaintiffs,	)	<b>ORDER GRANTING PRELIMINARY</b>
	)	<b>INJUNCTION</b>
v.	)	
	)	[Link to Docket Number 9]
RTI PROPERTIES, INC., a	)	
California corporation; BBK	)	
CARLIN, LLC, a California	)	
limited liability company;	)	
JUDITH A. CARROLL,	)	
individually and as trustee	)	
of the JUDI A. CARROLL	)	
LIVING TRUST, ROSA MARIA DE	)	
LA ROSA,	)	
	)	
Defendants.	)	
	)	
	)	
	)	

Presently before the court is Plaintiffs Mayra Davila and Kimberly Yantuche's Ex Parte Application for a Temporary Restraining Order and Order to Show Cause RE: Preliminary Injunction. After reviewing the materials submitted by the parties, hearing oral argument and testimony, and considering the evidence submitted, the court GRANTS the application.

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1 **I. Background**

2 On September 21, 2012, Plaintiffs filed a verified complaint  
3 alleging violations of the federal Fair Housing Amendments Act  
4 ("FHAA"), 42 U.S.C. §§ 3601, et seq. and the California Fair  
5 Employment and Housing Act ("FEHA"), Cal. Gov't Code § 12955 et  
6 seq., against Defendants, in relation to their notice to her to  
7 vacate the property located at 4217 Carlin Avenue, Lynwood,  
8 California, 90262, within sixty days. On October 5, 2012,  
9 Plaintiffs filed an application for a Temporary Restraining Order  
10 ("TRO"), seeking to prevent eviction proceedings from starting on  
11 October 12, 2012. On October 9, 2012, the court granted the TRO.  
12 A preliminary status conference was held on October 18, 2012, and a  
13 full hearing on the Preliminary Injunction was continued to  
14 November 1, 2012.

15 **II. Legal Standard**

16 The Supreme Court set forth the standard for assessing a  
17 motion for preliminary injunction in Winter v. Natural Resources  
18 Defense Council, Inc., 129 S. Ct. 365, 376 (2008). "Under Winter,  
19 plaintiffs seeking a preliminary injunction must establish that (1)  
20 they are likely to succeed on the merits; (2) they are likely to  
21 suffer irreparable harm in the absence of preliminary relief; (3)  
22 the balance of equities tips in their favor; and (4) a preliminary  
23 injunction is in the public interest." Sierra Forest Legacy v.  
24 Rey, 577 F.3d 1015, 1021 (9th Cir. 2009).

25 **III. Discussion**

26 Having reviewed both parties' pleadings, heard testimony and  
27 oral argument, and considered the evidence, the court finds no  
28 reason to alter its conclusion that Plaintiffs have made a showing

1 of likelihood of success on the merits and that the balance of  
2 hardships weighs heavily in favor of Plaintiffs.

3 Plaintiffs assert that Defendants have violated the FHAA,  
4 which makes it unlawful "to discriminate against an person in the  
5 terms, conditions, or privileges of sale or rental of a dwelling,  
6 or in the provision of services or facilities in connection  
7 therewith, because of . . . familial status . . ." 42 U.S.C. §  
8 3604(b). Plaintiffs allege that they were given the notice to  
9 vacate based on their noncompliance with rules restricting children  
10 from playing in the common areas without supervision. When a  
11 housing provider seeks to establish restrictive rules applicable  
12 only to tenants with children, the housing provider must establish  
13 that the rules (1) constitute a compelling business necessity, and  
14 (2) that he has used the least restrictive means to achieve that  
15 end. Fair Housing Congress v. Weber, 993 F. Supp. 1286, 1292 (C.D.  
16 Cal. 1997); U.S. v. M. Westland Co., CV 93-4141, Fair Housing-Fair  
17 Lending ¶ 15,941 (HUD ALJ 1994).

18 Plaintiffs have also alleged discrimination based on sexual  
19 orientation in violation of the FEHA, which prohibits making  
20 statements that indicate a "preference, limitation, or  
21 discrimination based on . . . gender identity, gender expression,  
22 [or] sexual orientation." Cal. Gov't Code § 12955(c). Plaintiffs  
23 allege that Defendant de la Rosa and her daughter have made  
24 statements indicating a preference against Ms. Yantuche's perceived  
25 sexual orientation.

26 Having heard testimony and considered evidence from the  
27 parties, the court finds that on balance the reasons it provided in  
28 the Order granting the TRO are still valid. The court finds that

1 Plaintiffs have shown a likelihood of success on the merits by  
2 providing evidence of a policy that is facially discriminatory  
3 against families with children and by presenting testimony that  
4 this policy contributed to Defendants' decision to issue Plaintiffs  
5 a Notice to Vacate. The court notes the substantial hardship  
6 Plaintiffs would suffer based on their 15-year occupancy, the lack  
7 of evidence of available comparable housing, the proximity of the  
8 property to Plaintiff Yantuche's place of employment and to  
9 Plaintiff Davila's son's school, and other bases of hardship set  
10 forth in the record. It does not appear that Defendants will  
11 suffer any great injury should a preliminary injunction issue.

12 Therefore, at this time, the court finds that a preliminary  
13 injunction should issue.

14 Accordingly, it is hereby ordered that Defendants and  
15 Defendants' respective agents, employees, representatives, and all  
16 persons acting under Defendants' direction are enjoined from  
17 commencing eviction proceedings against Plaintiffs from the  
18 property at 4217 Carlin Avenue, Lynwood, California, 90262, or from  
19 taking any further action in an attempt to evict Plaintiffs from  
20 their residence.

21 **IV. CONCLUSION**

22 For the foregoing reasons, the court GRANTS Plaintiffs'  
23 application for a preliminary injunction.

24 IT IS SO ORDERED.

25

26 Dated: November 2, 2012

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DEAN D. PREGERSON  
United States District Judge