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Dangers to Children: Attractive Nuisances

Children are playful and curious - traits which are important for learning and exploration, but which can also land them in dangerous situations. Everyday objects on other people's property can irresistibly draw children onto the property, but also present them with hidden dangers.

If your property contains items that both draw children in and threaten them with harm, the law places a special responsibility on you to take steps to protect the children who may come onto your property. This duty is generally called the "attractive nuisance" doctrine.

Typically, the attractive nuisance doctrine has three components:

- The law doesn't expect children to fully comprehend the dangers they may face
- If a property owner has reason to believe that children might come onto their property, the law places a special responsibility on them to prevent harm
- If an owner fails to meet this responsibility, they will most likely be held liable for the child's injuries.

How Can I Tell What's an Attractive Nuisance?

An attractive nuisance is something that is so interesting that it would entice a child into entering another's property. Although this may sound very broad, most courts limit this considerably. For instance, many courts require that the object be man-made and many require that you "maintain" the nuisance in order to be liable. This means that ponds or lakes are generally not attractive nuisances. Also most courts understand that children can hurt themselves on virtually anything, and the law generally presumes that children understand some dangers (e.g., falling from a great height, or touching fire).

What are some typical attractive nuisances?

Typical attractive nuisances include:

- Swimming pools and fountains
- Machinery (lawnmowers, gasoline pumps, etc)
- Wells and tunnels
- Dangerous animals
- Paths and stairs

Attractive nuisances can also take less obvious forms, such as a rooftop. If it's known that the local children climb onto roofs, your roof is easily accessible and you've taken no steps to keep the children away, you may be liable.

Who is protected from attractive nuisances?

What constitutes a "child" differs from court to court, but keep in mind that teenagers may still be considered children in many courts. Attractive nuisance liability is not limited to only very young children.

How can I protect myself from liability?

Take precautions. You are never required to childproof your property, but taking some basic actions to prevent injury goes a long way toward avoiding liability. Courts tend to punish people who didn't seem to care or put any effort into encouraging safety. If you can list the steps you took to prevent injury, many courts will be satisfied, even if they didn't ultimately work.

Follow your state and local laws. There are inevitably a host of local regulations that govern almost any potential attractive nuisance (such as pools). Showing a court that you were abiding by the local law can be decisive in most instances.

Finally use common sense and good judgment. If you see children interested in something on your property, that alone can trigger liability by establishing that you're aware they're interested. Lock it up, fence it up, do whatever you can. Signs are helpful but generally won't save you by themselves - you must take steps to prevent the children gaining access to the attractive nuisance. Your insurance agent will usually have a list of potential items that may be attractive nuisances on your property and have advice for protecting yourself. Last but not least, look out for children in your neighborhood by reporting any obvious dangers to the property owner and your local authorities if need be.

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