

Module 3: Example 5

Code right v. common law right: Temporary *sukkah* hut on condo balcony

Here is an example of a *Code* right (creed) versus a common law right (right to peaceful enjoyment of property).

In this example, a Jewish family is asked to remove a *sukkah* hut that they placed on their condominium balcony for religious celebration. The *sukkah* hut would normally stay up for nine days.

The *sukkah* hut does not comply with the condo's by-laws and the neighbours are complaining that it's interfering with their enjoyment of their property. They also claim that their property value will decrease.

The Jewish family claims that despite the condo's by-laws, they have a right to accommodation under the *Code* because of their religion (creed). The condominium co-owners argue that they have a common law right to peaceful enjoyment of property.



Here are some discussion questions to think about:

1. In this case, do you think one right should be treated as more important than the other? Why?