



Metropolitan St. Louis Equal Housing Opportunity Council

July 5, 2006

Mayor Norman C. McCourt
The City of Black Jack
Black Jack City Hall
12500 Old Jamestown Road
Black Jack, MO 63033

Mayor McCourt:

On behalf of the National Fair Housing Alliance and the Metropolitan St. Louis Equal Housing Opportunity Council, we write to express deep concern about Black Jack's zoning law and its disparate impact on nontraditional families. Presently, Black Jack prohibits more than three people from living together in the same house if they are unrelated by blood, marriage or adoption.

When zoning ordinances focus on the demographics of who will live in housing, rather than a building structure, heightened scrutiny is warranted under the Fair Housing Act. While you may profess to justify the ordinance as a means to prevent overcrowding, the ordinance serves your purpose marginally, at best. The negative effects associated with overcrowding, such as traffic and congestion, are best approached through improved infrastructure, affordable housing, social services and public works. Regulating family through restrictive ordinance is a marginal solution that unfairly targets certain groups, interferes with private choice and violates the federal Fair Housing Act.

The definition of family adopted by the City of Black Jack has four basic problems. First, the ordinance places different terms and conditions on families with children than are placed on other households. In order for families with children to live in the City of Black Jack, they should get married, you have said. In a letter regarding a family denied an occupancy permit in November 1999, you wrote: "The easiest resolution to cure the situation would be for them to be married. Our community believes that this is the appropriate way to raise a family. While it would be naïve to say that we don't recognize that children are born out of wedlock frequently these days, we certainly don't believe that is the type of environment within which children should be brought into this world." Requiring different terms and conditions of families because of their membership in a protected class (families with children) is a violation of the Fair Housing Act. In addition, this ordinance was intended, in part, we understand, to prevent overcrowding in the schools. To be perfectly clear, limiting families with children access to housing because of alleged school overcrowding discriminates against families with children.

Your restrictive definition of family also violates your own local fair housing ordinance which explicitly bans marital status discrimination, because the ordinance treats married families differently from unmarried families. Had the Shelltrack – Loving family's real estate agent

informed the family that they couldn't live in Black Jack because they were unmarried, she would have been in violation of your fair housing ordinance. Calls to city hall and to your attorney to ask how to file a fair housing complaint through your local process went unheeded. Your website indicates that there are currently three vacancies on the three member human rights commission which hears fair housing cases. As a community which receives funding through the Community Development Block Grant (CDBG) program, we find it hard to see how the city can certify that it is "affirmatively furthering fair housing" in the current state of affairs.

In clearly stated language, you use the guise of morals and standards as acceptable bases for exclusion. The ordinance functions to preserve a religiously tinged conformity to notions of marriage and family. May we remind you that current federal, state and local laws, including the federal Fair Housing Act, prohibit housing discrimination. HUD's regulations implementing the federal Fair Housing Act state that:

*It shall be unlawful, because of race, color, **religion, sex, handicap, familial status, or national origin, to restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development. (24 CFR Part 14, Section 100.70(a)).***

Keep in mind that a precedent for precluding intrusive regulation of family has already been established. In 1977, the U.S. Supreme Court ruled in *Moore v City of East Cleveland* that the city's ordinance violated the Due Process Clause of the Fourteenth Amendment by infringing on family and privacy. East Cleveland's ordinance recognized some familial relations while disregarding others. Certainly, any city has a stake in guaranteeing its civilian well-being but its interests in curtailing overcrowding do not supersede a family's preferred living arrangement.

Freedom of personal choice *does* exist in matters of marriage and family life.

The National Fair Housing Alliance and Metropolitan St. Louis Equal Housing Opportunity Council urge the City of Black Jack to adopt a more expansive definition of "family" and to issue an occupancy permit immediately to the Shelltrack and Loving family.

Respectfully,



Shanna L. Smith
President and CEO
National Fair Housing Alliance



Will Jordan
Executive Director
St. Louis Equal Housing Opportunity Council