

Opinion: Housing Laws and the Meaning of Household

by Kathleen McDonough

WHAT YOU CAN DO

Do you live in a municipality that forbids unmarried folks from living together? Find out! Here are some places to start:

- Municode.com: Search your city at this comprehensive website of municipal codes.
- Fairhousing.com: Click "Get Help Near You" for a partial list of private and government Fair Housing agencies in or around your community.

You can also look to your local library for information about your city government and local representatives. Put in a call and ask who you can speak with about housing codes in your community! If you find restrictions on unmarried cohabitation where you live, please let us know.

Community housing laws provide much needed safeguards against hazardous or unsanitary living conditions, and we might assume that such regulations are neutrally enforced to maintain a living standard that is secure and equitable for all community members. What is sometimes overlooked but worthy of our attention is the impact of such regulations in defining households and families.

The Federal Fair Housing Act (FFHA) states: "It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States." Under the FFHA it is illegal to refuse to rent or sell housing, deny the availability of housing, block access to housing through renters or brokers, establish different terms or conditions for sale or rental of housing, or threaten, coerce or otherwise intimidate an individual in pursuing their right to fair housing based on race, color, national origin, religion, sex or disability.

Despite the expansion of protected statuses under the FFHA's 1988 updates, there is currently no federal protection against housing discrimination based on marital status. While many states have added such protections to their human rights and/or housing codes, thousands of municipalities nationwide presently have total discretion regarding housing discrimination based on marital status. The federal marriage exception has created a vacuum in which unjust housing practices disproportionately affect singles and families whose relationships exist outside of "blood, marriage or adoption."

Municipal zoning ordinances can often encode discriminatory housing practices and moral judgments about the validity of certain families and household arrangements in the name of "over crowding" and occupancy standards. Often, these ordinances neglect to consider the actual square footage of a residence, and instead focus on the number of "unrelated" individuals who occupy a single family dwelling. Such discriminatory practices made headlines this summer in Black Jack, MO, when a family of five was denied an occupancy permit for a two story, five bedroom home because Olivia Shelltrack and Fondray Loving were not legally married. Under the threat of a lawsuit brought by the ACLU on behalf of the couple, the Black Jack city council eventually amended its rules to allow unmarried partners to live together.

Municipal zoning ordinances are not the only means by which unmarried couples are left vulnerable in housing transactions. Adding marital status to the list of protected statuses under the FFHA would prevent landlords from citing claims of religious liberty to deny housing to unmarried couples, and could penetrate the wall of privacy surrounding co-op board rejections of unmarried couples. Even in cases where members of a household are related by blood, housing codes are increasingly being amended to narrow the definition of a family to exclude extended relationships, including aunts, uncles, grandparents, nephews and nieces. Housing ordinances such as these mask community prejudices with the language of over crowding and "single family" occupancy. Insidious racist encoding violates federal protections against race and national origin discrimination and promotes dangerously normative standards of who counts as a family and who does not. Manassas, VA received national attention this year for an ordinance prohibiting aunts, uncles, nieces, nephews and great-grandparents from living together as a family, unambiguously targeting Latino families in the community. The ordinance was later suspended under threat of a lawsuit brought once again by the ACLU.

Housing Discrimination and AtMP's History: When Dorian Solot and Marshall Miller were looking for an apartment in the Boston area, they inquired about a listing only to have the landlord make it clear that he would not rent to unmarried couples. They later found that the landlord's inquiry into their marital status was illegal. When they looked for groups working on this issue, they didn't find any. This was one of the experiences that galvanized them to create AtMP in 1998.

Without federal protection for household diversity, municipal housing ordinances are often used to discourage neighborhood diversity, leaving singles and families vulnerable to the whims of their community leaders. We must insist housing codes reflect neutral standards of sanitation and safety without legally defining who we care for and how we do so. It is time for the federal government to support and protect household and family diversity, because it is the function of housing laws to reflect and accommodate changing housing needs, not sculpt and resist our evolving relationships.

Kathleen (Katie) McDonough attends Hunter College where she studies Political Science. This summer she researched marital status discrimination in housing, under the guidance of AtMP board member Jennifer Gaboury.