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ARTICLE: CLUSTER VI: Class, Economics, and Social Rights: Space of Hate: Ethnicity, Architecture and Housing Discrimination

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BIO:

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SUMMARY: ... This essay delves into some of those daily activities to extricate the interaction amongst culture, housing codes, and housing discrimination. ... In recent years, the border has moved east and north with, for instance, Mexicans in the Chicago area finding themselves embroiled in the same politics of household spatial arrangements as municipalities try to move them out of town. ... Municipalities and states often adopt a model housing code that defines a bedroom, or sleeping room, as a room that is not a passthrough to another room. ... The overarching question here is: if concepts of appropriate use of domestic space are culturally specific, do current occupancy standards and family definitions discriminate against people with non-dominant conceptual frameworks? In other words, do they discriminate on the basis of national origin, when the latter is defined as what it means to be of a particular ethnic background? This moves the meaning of national origin from its legal definition of where one or one's ancestors are from, to an anthropological definition. ... And by extension, you and your family are - what, immoral, ignorant? Imagine the confusion

and embarrassment for the children of immigrant Mexicans as they watch their parents be evicted for keeping them safe and warm by sharing a sleeping room with them. ...

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I. Introduction

Embedded within the most everyday, trivial facets of daily life lie the secrets for understanding how and why popular culture, politicians, policymakers, and judges turn their own truths into determinations of what is reasonable to the "ordinary" person. This essay delves into some of those daily activities to extricate the interaction amongst culture, housing codes, and housing discrimination. In particular, it explores housing discrimination on the basis of familial status and national origin. Since this inquiry concerns the daily actions of each of us, I start by framing the issue with some personal questions for you to answer:

1. Do you share the place you live with anyone?
2. If so, what is the relationship of the people in the home?
3. Where in your home do you sleep?
4. With whom, if anyone, do you share the place in which you sleep?
5. What do you call the space in which you sleep?
6. How do you determine if a room is a bedroom or a living room or a hallway or kitchen?
7. How do you decide that a bed should or should not appropriately be put in a particular named space?
8. Are, or should, these questions be the business of anyone other than the residents of a home?
9. And finally, where do architecture, ethnicity, politics, and discrimination [*882] coincide in these questions?

Not only does how one thinks about these questions and others like them influence how houses are designed, based on what seems the most appropriate use of space to the designer, but how space is set up has a cognitive affect on how the inhabitants learn to think about themselves and their relations with others;

it is a profoundly cultural experience. Domestic spatial organization is also a profoundly political experience.

The more rigidly one adheres to a universal set of right answers to questions about such mundane everyday activities as where and how one should sleep and with whom one lives, the more cultural and political house design and household composition become. Situated within this rigidity lies the belief that it is not only okay, but legal, to rid a town of ethnic populations that the dominant power structure does not like, on the grounds of house design and household composition and size. Mexicans living in California have long had to fight against such tactics. n1 In recent years, the border has moved east and north with, for instance, Mexicans in the Chicago area finding themselves embroiled in the same politics of household spatial arrangements as municipalities try to move them out of town. n2 For a century, ethnic groups throughout the United States have had to deal with the same fight. n3

Many facets of house design and daily use have been codified into local, state, and federal regulations. I will concentrate here primarily [*883] on issues surrounding sleeping and concepts of overcrowding as a way to think about the relationship amongst house design, use, and discrimination - and the impact of this on upward mobility and the ability to afford to send remittances home.

Municipalities and states often adopt a model housing code that defines a bedroom, or sleeping room, as a room that is not a passthrough to another room. n4 This eliminates many dens, living rooms, and hallways from being acceptable for sleeping.

More than just a semantic issue, these sociopolitical regulations often limit a family's ability to afford decent housing in a location of their choice. In addition to defining the configuration of space that can be called a bedroom and counted for sleeping purposes, some regulations restrict occupancy of a home to no more than two people per bedroom, regardless of bedroom size. n5 With this calculation, a den that is a passthrough to another room is not included in determining the maximum allowable number of residents. Other restrictive codes determine the maximum occupancy by measuring the total number of people per square foot in a bedroom as well as in the overall unit. n6 Regulating the number of people per square foot in the overall unit has a ring of altruistic concern by preventing the severe overcrowding of the turn of the twentieth century tenements and ensuring that the number of residents does not exceed the structural load a building can withstand. However, the algorithm for setting the people to space ratio is highly constrained both culturally and politically.

This has a potentially devastating financial affect on larger households or households wanting to share a home for either economic or personal reasons.

The underlying premise of this research is that there is a recursive relation between the design and use of domestic space, larger societal values, and conceptual frameworks - the enculturation process. n7 Homes are dynamically implicated in the social construction of [*884] self and society - at both individual and policy levels.

The overarching question here is: if concepts of appropriate use of domestic space are culturally specific, do current occupancy standards and family definitions discriminate against people with non-dominant conceptual frameworks? In other words, do they discriminate on the basis of national origin, when the latter is defined as what it means to be of a particular ethnic background? This moves the meaning of national origin from its legal definition of where one or one's ancestors are from, to an anthropological definition. n8

Whereas the general justification for current standards presumes a two-people-per-bedroom (2:1) or similar standard to be reasonable to the ordinary person, research demonstrates that such standards explicitly derive from, and refer to, upper-class, English and Euro-American definitions of reasonable. n9 That definition is, in fact, unreasonable to many ethnicities in the United States exactly on account of where they or their ancestors are from and what it means to be from there. n10 With this being so, the prevailing definitions of "ordinary" and "reasonable" lose their privileged positions.

Furthermore, the standards tend to be justified under the rubric of providing for the health, safety, comfort, and convenience of the inhabitants. n11 What if it is not physical or emotional health, safety, comfort, and convenience that is being protected by the 2:1 standard, but rather a very restrictive, culturally derived definition of moral health, safety, comfort, and convenience? How might this affect their standing?

Parenthetically, although I will not discuss it now, this research also engages in debates about what it means to be American. When law asks "what is reasonable to the ordinary person," who is the referent? "Reasonable" tends not to be construed as the household with four people sharing a bedroom, but rather normalizes as "reasonable" [*885] the one in which each child has a separate bedroom, privileging individualism and independence over interdependency.

II. Discussion

A. Historical Context of Current Occupancy Standards

Here I provide the barest outline of the complex history of politics, morals, outdated science, and assimilation behind the regulations that determine what a bedroom is, how many people can share a unit, and how design-related regulations are used as a means to attempt to assimilate people of non-dominant groups as well as oust unwanted populations. I will refer to several recent and ongoing legal cases in which hate, coupled with housing and zoning ordinances, have been used to try to rid towns of Mexican households.

Starting with some history of occupancy standards: as the nineteenth century turned into the twentieth, scientific wisdom held that a person could literally drown in his or her own impure breath if there were insufficient circulation of air in a room. n12 Miasma, as this impure air was called, helped usher in particular occupancy standards that are at the base of today's standards. n13 This cutting edge scientific knowledge of the late nineteenth century proved, without doubt, that one's own breath was full of deadly carbonic poisons and that "40 or even 50 percent" of deaths in New York City were directly caused by breathing one's own self-inflicted noxious air - you could drown in your own exhaled breath. n14

Simultaneously, urban life was undergoing many new pressures, including a large influx of non-English-speaking moneyless immigrants. n15 The primarily upper-class establishment of Northern European background considered these not-yet-white immigrant populations, such as Eastern European Jews, Irish, and Italians, to be intellectually and morally inferior to the policy-making, established population. n16 This belief was legitimized by the then dominant scientific belief of eugenics, or the hereditary transmission of behavioral characteristics. n17

[*886] The push to Americanize these immigrants included trying to dissuade them from a more socialist orientation that encouraged group interdependency and inculcate them with a respect for individualism and a conservative capitalistic orientation. n18 Respect for privacy, for one's room and one's house, was seen as one way to teach the immigrants to respect personal property over community property. n19

The highly influential 1939 American Public Health Association (APHA) publication, *Basic Principles of Healthful Housing*, argued that "[a] room of one's own is the ideal ... but we can at least insist on a room shared with not more than one other person." n20 They believed that individuals needed protection from the "intrusion" of others in the household. n21 This follows well from a 1935 English Law on Overcrowding and the presumed psychological

necessity of privacy through cutting oneself off from others physically with walls and doors. n22

In a 1950 publication, *Planning the Home for Occupancy*, the American Public Health Association was very explicit that the minimum occupancy standards they deemed necessary to attain the goal of healthful housing "closely approximate actual practice in the high-income groups." n23 This statement makes explicit that one sector of society, the high-income, primarily White Northern European Protestant, had become the social, cultural, and political model of American normalcy. This ratio of people to bedrooms combined a particular morality with a particular sociopolitical stance.

The years between then and now just served to reinforce the dominant policymaker's acceptance of a nuclear family with a density of no more than 2:1 as reasonable and a marker of arrival. n24 It is so much a part of a dominant ideology of arrival, that a friend long involved with Civil Rights work berated me for my insistence on a more lenient occupancy standard that would allow more people in a dwelling by declaring: "I want others to have what I want for my own family." [*887] He was not aware that having one's own bedroom is not only a personal choice, but a sociopolitical one. His grandparents were just the immigrants the reformers were hoping to Americanize through rearranging their domestic space.

Thus, the 2:1 standard has a distinctly Northern European, upper-class lineage. The foundations of the now-accepted standards have been long forgotten, yet they remain implicitly with us, having become part of our common-sense, everyday, unquestioned reality of what is reasonable.

Anthropological literature makes clear, however, that there are significant cultural differences concerning what constitutes comfort, crowding, and appropriate use of domestic space. In countries as different as Japan and Mexico, household members commonly choose to share bedrooms while leaving others unused; it is not just an economic issue. n25 Sharing sleeping and other spaces is often part of a cultural emphasis on interdependency as a personal and political goal, while sleeping alone, and other emphases on physically bounded private domestic space, help enculturate a greater emphasis on individualism. n26 This point was not missed by the housing reformers of the turn of the twentieth century.

This century-old lesson of correlating physical privacy, individualism, and capitalism has been well learned. An article published in 2000 in *The New York Times* reported that teen-agers' bedrooms tend to be places of "electronic isolation" where they go to do activities by

themselves, separate from the rest of the household. n27 Fifteen years of research with my students at University of California, Los Angeles and University of Massachusetts, Amherst, supports this. Bedrooms are places where teens commonly eat, entertain, and use their electronic media, all separate from others in the home. It is not just a sleeping, dressing, and grooming place for turn of the millennium middle-class America, it is truly the place of isolation and individualism for which the writers of the American Public Health Association were aiming.

B. Naming

So, why do we still call the place where we sleep a bedroom rather than a playroom, for instance? The naming of appropriate activities that should occur in a particular bounded and named space imbues that space with meaning and gives it some sort of moral, [*888] emotional, physical, and practical imperative, even if it is not how it is used in reality. It allows a town to dictate the maximum number of people who may share a bedroom or the relationship of the people in a house, and call it a moral and health issue.

As I mentioned, not all societies aim for this isolation, or see it as a goal to which to strive. n28 Quite the opposite.

When comparing practices and subsequent regulations in Mexico and the United States, it is important to remember that practices in the United States derive largely from Great Britain. n29 But, even in Britain not every household practices the "proper" concept of appropriate room use. Part of the issue is class-related, which makes it all the more political. I remember visiting a friend and his parents in Glasgow. They lived in a two-room flat; they had a living room and kitchen. At night, the kitchen became a bedroom as beds were opened. As the guest, I stayed there; it was warmer in the Glasgow winter. Under U.S. regulations, this family of three could have faced eviction because the kitchen is, by code, a non-bed locale. n30

Of course, the old New York City tenements lacked the basics for current approval. Many had the bathtub in the kitchen; it was also often used as a sink and family members or boarders might sleep in the same room as the bathtub and stove. n31 A major reason for disapproving of this sleeping arrangement had to do with the establishment's worries about what went on behind the closed doors of low-income immigrants, expecting that this living and sleeping arrangement might just encourage their supposedly "natural" propensity toward indecent bodily displays and immoral sexual behaviors - this is eugenics in practice. n32

Hallways within a home were also commonly used by immigrants for sleeping, although disallowed in modern codes since they are a passthrough to other rooms. An eighty-year-old man from Chicago told me how in the early part of the twentieth century his father would drive to Union Station to pick up friends of friends from his home town in Eastern Europe and take them back to the duplex they owned. The visitors would sleep on cots in the hallway. At times there were as many as three hallway sleepers. Sometimes when they arrived, they had no money to pay rent. They would stay for free until they found work and then start paying. Some would quickly move [*889] on to their own relatives if they had any nearby. His father always told him that you had to help others out like this. If this type of mutual assistance happened today and a municipality did not want that particular brand of immigrant, they would cite them for building code and/or zoning code violations and evict them. The hallway is, remember, not an approved sleeping area; it does not count for the number of allowable people per bedroom in current codes.

If there is no code disallowing the hallway to be counted as a sleeping area, one can always be conveniently created. This is, in essence, what is happening in many of the suburbs around Chicago, where a noticeable number of Mexican households are starting to establish residences. In such a setting, the sociopolitics of domestic space comes to a fore. The following are a few examples in which the public rationale for occupancy codes is to avert unhealthy overcrowding, while the real intent is far more insidious.

In 1993, Cicero, a suburb of Chicago was sued by the Department of Justice for a violation of the Fair Housing Act. The complaint asserted that "through the enforcement of the occupancy ordinance, the defendants have begun to achieve their objective of preventing, or discouraging, Hispanic families with children from becoming residents of the Town." n33 In addition to creating an occupancy standard that would not allow more than two people to live in some three-bedroom homes, which is far more restrictive than the model occupancy codes, Cicero's ordinance was only enforced against new purchasers of property, primarily Latinos, not against the predominantly White existing homeowners. n34 Cicero was forced to drop this ordinance as discriminatory. n35

Soon after, in 1996, a suit was filed against Waukegan, another Chicago suburb, where a different tactic was being applied against the Latino newcomers. n36 Knowing that many of the Mexican newcomers lived in extended family households, the city tried to restrict

residency to the nuclear family and no more than two additional relatives. n37 They too lost the case. n38

[*890] But this did not stop the City of Elgin, a suburb northwest of Chicago, from trying similar techniques. The Latino population, many of whom are also Mexican, has increased from about one in ten in 1980 to one in four in 1990, many working in low-paying service jobs. The suits against Elgin claimed that the city chose to define what was an acceptable sleeping room differently for Latino and White homeowners, allowing the latter to include living rooms. n39 They also calculated the size of rooms differently, which led to more Latinos being evicted. n40 That these were indeed attempts to return to a whiter community is clear from the disparate treatment of Latinos as compared to Whites. The suit alleged that whereas White households were given advance notice of inspection, Latinos were not. A story in the Washington Post clearly shows the degree of animosity that underlay the attempt to use occupancy standards for discriminatory purposes. n41 A twenty-one year-old, eight-month pregnant Latina and her two-year-old son were forcibly evicted into a cold and rainy Chicago winter by a city inspector and police officer for suspicion of living beyond occupancy codes. n42 The evidence? Mattresses on the basement floor. n43 Mattresses which she said were for watching television. n44 Regardless of their use, there were no sleeping people on them at the time of eviction. n45 But perhaps more relevant to my concerns is, why couldn't the basement be considered an appropriate sleeping area?

And perhaps more significant yet is the question underlying [*891] even the legal codes: for how long will we continue to allow culturally-determined domestic spatial relations to be a conduit for discriminatory practices against non-dominant ethnic groups?

The stories go on, but I will only offer one more now. After the 1994 earthquake in Los Angeles, I worked with a fair housing organization to figure out why Mexicans and other Latin-Americans were not being rehoused as quickly as other displaced people. One of the answers was that HUD was giving out housing vouchers that only permitted two people per bedroom, while most of the available post-earthquake housing, what little there was, was only two bedrooms. Families that had been quite happily living with four people in a one-bedroom home, or five people in a two-bedroom, were unable to find anywhere that they could afford to live that would not further disrupt their lives - many ended up in dangerous neighborhoods, their children had to change schools and friends, and distance to work increased dramatically. All because of culturally-

bound concepts of crowding, sleeping spaces and proper household interaction.

How do these examples relate to assimilation and politics today? As I suggested with reference to the turn of the last century, assimilation and discrimination are often close relatives. The significance of preferring shared spaces or preferring physically bounded private spaces can go beyond the individual and into his or her relation with the larger society. When people cannot choose where to live, or how to live in the space of their homes due to culturally defined regulations, regulations with no real health and safety basis, they are being discriminated against in their search for decent, affordable housing. In addition, they are more likely to become culturally assimilated given the absence of choice on how to conceptualize and use their physical and social environments.

If the fundamental base of the standards cannot hold up to scrutiny, then one can argue that they discriminate not only against people on account of their national origin, but against other protected (and unprotected) categories of people who are hurt by them as well. n46

Therefore, while the occupancy standards might be facially neutral, their effect certainly is not, and their intent often is not either. It seems to me that with conservative administrations, it is often not sufficient to prove that the law has the effect of discrimination, rather, one has to prove an intention to discriminate, and proving motive is notoriously hard. I believe that I have found traces of intentional (as well as unintentional) discrimination in the origins of the standards.

[*892]

III. Conclusion

So, in conclusion, when you decide where to put your bed, and with whom to share your bed or home, realize that you are not just making a personal decision, but also a social and political one. When you imagine alternatives for those living arrangements, think about why they might feel right or wrong to you. Now, imagine being told that the way you have chosen to organize your domestic space is wrong and that you can be evicted for health, safety, or even moral reasons. And by extension, you and your family are - what, immoral, ignorant? Imagine the confusion and embarrassment for the children of immigrant Mexicans as they watch their parents be evicted for keeping them safe and warm by sharing a sleeping room with them.

And finally, imagine a place where a particular sleeping arrangement or household composition has somehow taken on such a "sacred" tone - and I use the

word "sacred" purposely - that the power structure feels confident that these elements of family life can be regulated in its quest to get rid of unwanted ethnic groups, and in the case of Mexicans, to move the border further south.

Maybe we can open up trade with Mexico, import Mexican workers for low-wage factory and farm jobs, or buy U.S. name brand clothes made in Mexico for a pittance. While we are happy to depend on their work to maintain our standards of living, many communities nonetheless selectively use occupancy standards and concepts of proper family formations as proxies for racism and as a convenient resource to keep people from unwanted ethnic groups out of sight and out of their neighborhoods.

FOOTNOTE-1:

n1. See, e.g., [Briseno v. City of Santa Ana](#), 6 Cal. App. 4th 1378 (1992) (holding that the state's Uniform Housing Code preempted local regulation of minimum dwelling unit size).

n2. See e.g., *United States v. City of Waukegan*, No. 96-C-4996 (ND. Ill. 1997) (consent decree). In *City of Waukegan*, the complaint alleged that Waukegan intentionally discriminated against Hispanics by enforcing an ordinance that restricted the number of relatives (by blood or marriage) who were not part of the nuclear family that could share a dwelling. *Id.*

n3. Over a century ago, the Chinese were experiencing similar discrimination, first in San Francisco by means of the 1870 Lodging House Act, popularly known as the anti-Coolie Act, which severely limited the number of people who could share a housing unit, and later, in 1876, when the Act became a state law. See generally Elmer C. Sandmeyer, *The Anti-Chinese Movement in California* (Univ. of Ill. Press 1991) (describing the history of prejudice against the Chinese in California). Later in this paper, I mention several recent cases from the Chicago area. See *infra* pp. 108-09. Other municipalities have passed restrictive occupancy policies only to have them invalidated in court. For example, in one case in Wildwood, New Jersey, the Department of Justice successfully argued that the new standards would have a disparate impact on local Latino households. *United States v. City of*

Wildwood, No. 94 CV1126 (JEI) (D.N.J. 1994) (consent order). For a more complete listing of occupancy standards cases see Robert G. Schwemm, *Housing Discrimination: Law and Litigation* (West Supp. 2002).

n4. See generally Memorandum from Frank G. Keating ("Keating Memo"), General Counsel, HUD, to Reg'l Counsel, HUD (Mar. 20, 1991) reprinted in *Fair Housing Enforcement-Occupancy Standards Notice of Statement of Policy* No. FR-4405-N-01 (Dec. 18, 1998), available at <http://www.fairhousing.com/hud%5fresources/keatingmemo.htm>; Building Officials & Code Administrators Int'l, Inc. (BOCA(R)) *The BOCA Basic National Existing Structures Code 1984* [hereinafter BOCA(R), Existing Structures Code].

n5. See *Fair Housing and Enforcement-Occupancy Standards Notice of Statement of Policy* No. FR-4405-N-01 (Dec. 18, 1988) (adopting the guidelines on occupancy standards set forth in the Keating Memo).

n6. BOCA(R), Existing Structures Code, *supra* note 4.

n7. See generally Henri Lefebvre, *The Production of Space* (Donald Nicholson-Smith trans., Blackwell 1998) (exploring the meaning of "living space"); Denise L. Lawrence & Setha M. Low, *The Built Environment and Spatial Form*, 19 *Ann. Rev. Anthropology* 453 (1990) (noting differences in architecture due to social and cultural factors); Ellen-J. Pader, *Spatiality and Social Change: Domestic Space Use in Mexico and the United States*, 20 *Am. Ethnologist* 114 (1993) (arguing that because spatial relations are intertwined with social values, housing policies often discriminate against non-dominant groups); Ellen-J. Pader, *Spatial Relations and Housing Policy: Regulations That Discriminate Against Mexican-origin Households*, 13 *J. Plan. Educ. & Res.* 119 (1994) (analyzing housing as a culturally mediated phenomenon).

n8. See Ellen-J. Pader, *Housing Occupancy Standards: Inscribing Ethnicity and Family Relations on the Land*, *J. Architecture & Plan. Res.* (forthcoming)

(providing an in-depth analysis of current occupancy standards as discriminating on the basis of national origin and familial status) [hereinafter Pader, Housing Occupancy Standards].

n9. See Pader, Housing Occupancy Standards, *supra* note 8.

n10. *Id.*

n11. *Id.*

n12. See Gavin Townsend, Airborn Toxins and the American House, 1865-1895, 24(1) Winterthur Portfolio, 1989, at 29, 29.

n13. See Pader, Housing Occupancy Standards, *supra* note 8.

n14. See Townsend, *supra* note 12, at 29.

n15. Roy Lubove, The Progressives and the Slums: Tenement House Reform in New York City, 1890-1917, 45 (1962).

n16. Cf. David R. Roediger, The Wages of Whiteness: Race and the Making of the American Working Class (Mike Davis & Michael Sprinker, eds., 1999) (1991) (coining the concept of "not-yet-white").

n17. See Pader, Housing Occupancy Standards, *supra* note 8.

n18. See Lubove, *supra* note 15, at 37; see also Gwendolyn Wright, Building the Dream: A Social History of Housing in America 125-27 (1983) (asserting that tenements were designed to encourage privacy and discourage communism).

n19. See Wright, *supra* note 18, at 127.

n20. American Public Health Association, Committee on the Hygiene of Housing, Basic Principles of Healthful Housing 16 (2nd ed. 1954) (1939).

n21. *Id.*

n22. Ministry of Health, Housing Act, 1935 Memorandum B: The Prevention and Abatement of Overcrowding (His Majesty's Stationery Office, London 1935).

n23. American Public Health Association, Committee on the Hygiene of Housing, Planning the Home for Occupancy vi (1950) (emphasis added).

n24. See Pader, Housing Occupancy Standards, *supra* note 8.

n25. See Pader, Spatiality and Social Change, *supra* note 7, at 126.

n26. See *id.* at 132-33.

n27. John Leland, Family's Choices Can Blunt the Effect of Video Violence, N.Y. Times, Sept. 25, 2000, at A1.

n28. See *supra* p. 106.

n29. See Pader, Housing Occupancy Standards, *supra* note 8.

n30. BOCA(R), Existing Structures Code, *supra* note 4, at 27.

n31. See Wright, *supra* note 18, at 124.

n32. See Charles L. Brace, The Dangerous Classes of New York & Twenty Years' Work Among Them 45-46 (Patterson Smith 1967) (1880); Lawrence Veiller, Housing Reform 33 (Wm. F. Fell Co. 1911) (1910).

n33. United States v. Town of Cicero, Civil Action No. 93C-1805, 12 (N.D. Ill. 1997).

n34. *Id.*

n35. In 1997, Cicero and the Department of Justice settled the case. Cicero agreed to abandon all housing policies that discriminated against residents on the basis of familial status or national origin. See Town of Cicero, Civil Action No. 93C-1805 (N.D. Ill. 1997) (consent order).

n36. City of Waukegan, No. 96-C-4996.

n37. Compare Town of Cicero, Civil Action No. 93C-1805 at 12, and City of Waukegan, Civil Action No. 96-C-4996, with [Moore v. City of Cleveland, 431 U.S. 494 \(1977\)](#) (discussing definitions of acceptable family composition in a household), and [Bowers v. Hardwick, 478 U.S. 186 \(1986\)](#) (Blackmun, J., dissenting) (arguing that the protection of the family is an important means to individual happiness and identity is "central to any concept of liberty"). I thank Professor Margalynne Armstrong, Santa Clara University Law School, for this reference.

n38. Like Cicero, Waukegan agreed to a settlement that enjoined the City from enforcing the occupancy code's discriminatory definition of family. See

City of Waukegan, Civil Action No. 96-C-4996.

n39. By August 2001, more than twenty complaints had been filed with the Chicago Hub Office of the Department of Housing and Urban Development. Personal communication with Anne Houghtaling, Director of Enforcement, National Fair Housing Alliance (Aug. 21, 2001). In August 2002, the city settled the suits, but never admitted that its enforcement practices were discriminatory. Lynette Kalsnes, *Elgin Settles Complaints of Housing Discrimination*, Chi. Trib., Aug. 20, 2002. Pursuant to the settlement, the City must establish a compensation fund for victims of its alleged discriminatory enforcement practices, revise inspection and warrant procedures, hold Spanish classes for code enforcement officers, and create a formal grievance procedure for complaints about unfair code enforcement. *Id.*

n40. See *id.*

n41. See Michael A. Fletcher, *Latinos See Bias in Elgin's Fight Against Blight, Tensions Rise over Crackdown on Crowded Housing*, Wash. Post, May 29, 2000, at A1.

n42. *Id.*

n43. *Id.*

n44. *Id.*

n45. *Id.*

n46. For example, these standards also harm families with children, single mothers, and low-income households in general (who, of course, are not protected).

