

How Far Should Fair Housing Laws Go?

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A California state agency recently took action against a woman who refused, on religious grounds, to rent dwellings to unmarried opposite-sex couples. We await with interest a U.S. Supreme Court decision on whether to hear an appeal, because a small, vocal group has lobbied our local town council to pass an ordinance that would prohibit the activity in which the California landlady engaged.

There Oughta Be a Law?

There are economic arguments against the general idea of the legislated imposition of access to housing. For example, those with a free market bent suggest that a profit-based marketplace would not systematically exclude large groups of potential customers, so laws are not needed. Still, our intent here is not to criticize the Civil Rights Act of 1866, Fair Housing Act of 1968 as amended, or other federal housing laws now in effect. We recognize that some problems persist; indeed, the prevalence in decades past of private covenants that excluded certain racial and religious minorities from some neighborhoods attests to a need for legal prohibitions on some forms of exclusion. We do question, however, whether such laws, which can exist at the federal, state, and local levels, should proliferate to cover ever-expanding groups.

Is the Plight That Serious?

Because laws direct unlimited public resources against accused violators, we should pass as few as possible. Recall the criminal trial in which the state's relentless power was directed against sports celebrity O.J. Simpson. Controversy ensued over the *not guilty* verdict, but even those who believe that Simpson was truly innocent would agree that he would have been found guilty without a legal "dream team" that only the most wealthy among us could afford.

When the charge is murder the state's power is appropriately applied. But is cohabitor homelessness now a pressing social ill; are large numbers of unmarried couples huddled in parks, unable to find housing because of widespread discrimination? Creating a new protected class opens the door for the disgruntled to claim discrimination even if they are denied leases for nondiscriminatory reasons. The practical reality is that the smallest landlords, even if guilty of no wrongdoing, could be driven to bankruptcy proving their innocence against deep-pocketed administrative agencies championing their carefree accusers. •

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