

Unwed couple, kids face boot by Black Jack

By Eun Kyung Kim

ST. LOUIS POST-DISPATCH

02/21/2006



Olivia Shelltrack, in back, directs the serving of food to her family in their new home in Black Jack.

(J.B. FORBES/P-D)

BLACK JACK

Olivia Shelltrack finally has her dream home. Her family moved into the five-bedroom, three-bath frame house in Black Jack last month. But now she fears she and her fiance face uprooting their children because of a city ordinance that says her household fails to meet Black Jack's definition of a family.

Shelltrack and Fondray Loving, her boyfriend of 13 years, were denied an occupancy permit because of an ordinance forbidding three or more individuals from living together if they are not related by "blood, marriage or adoption." The couple have three children, ages 8, 10 and 15, although Loving is not the biological father of the oldest child.

"I was basically told, you can have one child living in your house if you're not married, but more than that, you can't," she said.

The couple appealed the denial of an occupancy permit last week at a hearing before Black Jack's board of adjustment. Shelltrack said board members asked her and Loving personal questions about their relationship, their children and their previous home in Minneapolis, from where they moved, for nearly an hour. Then the board denied the couple's appeal. The case now goes before Black Jack's municipal court.

At the hearing, Shelltrack said, one board of adjustment member, Norma Mitchell, even pointed at her and asked, "I don't understand why you as a woman didn't exercise your right to marry that man," before being hushed by another board member.

Mitchell refused to comment. She referred all calls to Black Jack Mayor Norman McCourt, who defended the ordinance.

"This is about the definition of family, not if they're married or not," he said. "It's what cities do to maintain the housing and to hold down overcrowding."

The ordinance has been challenged before. In 1999, the unwed parents of triplets challenged the city's denial of an occupancy permit. It is unclear how that case was resolved.

Shelltrack said she and her family live in a 2,300-square-foot home, providing plenty of space for her family. But McCourt said the city can't differentiate its treatment to residents.

"You have laws on the books to preclude any situation," he said. "That's why it's there. It's kind of like a speed limit. You say you go 30 miles an hour. If everybody drives 30 miles an hour, why keep it on the books? It's the same situation."

In 1985, the city of Ladue sued a couple for violating a city ordinance prohibiting an unmarried man and woman from living together if they were not "related by blood, marriage or adoption." A year later, the Missouri Court of Appeals upheld the ruling against the couple, who had lived in the home since 1981.

Many municipalities in the region do have "these ridiculous ordinances about what's considered family," said Katina Combs, a fair housing specialist with the Metropolitan St. Louis Equal Housing Opportunity Council.

The federal Fair Housing Act prohibits discrimination involving race, religion, color, national origin, gender, disability and families with children, Combs said. Most states often will include additional protected classes, such as marital status. Illinois is one such state. Missouri is not.

"I have to believe in my heart that the people who live in Black Jack wouldn't try to make us leave the city and our home that we own simply because we have too many children out of wedlock," Shelltrack said.

"We've had a stable home as long as they've been alive. We are a family. (My kids) are not children of an unmarried couple, they're children of two loving parents," said Shelltrack.

Shelltrack, 31, could appeal Black Jack's decision to the St. Louis County Circuit Court, but she said that would involve legal fees that she and Loving can't afford because of the money they poured into buying their home.

She said, however, the couple has filed a complaint with the U.S. Housing and Urban Department.

"I refuse to run down to the courthouse and get married just so I can live in my own home," she said. "I love my house. I love the area. I love the schools. We wouldn't have bought the house if we didn't think it was what we wanted."