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Apartment for Rent - Children Not Allowed: The Illinois Children in Housing Statute - Its Viability and a Proposal for Its Comprehensive Amendment

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APARTMENT FOR RENT—CHILDREN NOT ALLOWED: THE ILLINOIS CHILDREN IN HOUSING STATUTE—ITS VIABILITY AND A PROPOSAL FOR ITS COMPREHENSIVE AMENDMENT

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Illinois has had a law prohibiting discrimination in rental housing against persons with children since 1909. In this Article, the authors explore the viability of this statute by analyzing the results of several in-depth surveys taken during the early part of 1975, and by comparing it to similar statutes in other states. Concluding that the present statute is ineffective, the authors propose the adoption of a comprehensive amendment, which encompasses aspects of other state statutes, as well as several innovative sections. The merit and constitutionality of these new proposals are also commented on. The authors feel that passage of this proposed Act by the Illinois legislature will finally provide an effective remedy to the victims of family status discrimination in rental housing.

I. INTRODUCTION

For over a century the prevention of discrimination in housing has been an important focal point of legislative activity at the federal, state and local levels. One of the earliest expressions of this interest is found in the Civil Rights Act of 1866, wherein Congress affirmed the real property rights of nonwhite citizens of the United States.[1] Evidence of additional and concentrated interest of the federal government may be found in the Housing Act of 1949,[2] the Civil Rights Act of 1964[3] and the Fair Housing Act of 1968.[4] Indeed, Congress has made the following declaration:

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1. 42 U.S.C. § 1982 (1970).

2. Housing Act of 1949, ch. 338, 63 Stat. 413 (codified in scattered sections of 12, 14 U.S.C.).

3. 42 U.S.C. §§ 2000 *et seq.* (1970).

4. 42 U.S.C. §§ 3601 *et seq.* (1970).

> the general welfare and security of the Nation and the health and living standards of its people require. . .the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family. . . .[5]

Similarly, numerous state and municipal legislative bodies have enacted comparable measures.[6]

Although the purpose of these earlier housing laws was to prohibit discrimination on the basis of race or color, subsequent measures have prohibited discrimination based upon national origin, religion[7] and sex.[8] Considerably less attention, however, has been focused upon another basis for discrimination, the existence of children in the family of a prospective tenant. Regardless of the limited attention that this type of discrimination has received, the effects of such family status discrimination can be as detrimental to its victims as the adverse effects of the more noticeable types of discrimination, *e.g.* inferior education, reduced proximity to employment, loss of neighborhood relationships and contacts, social embarrassment and similar personal, business, and social consequences.[9] Recently the federal government has attempted to treat the problem, albeit in a limited fashion.[10] Iso-

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5. Exec. Order No. 11,063, 3 C.F.R. 652 (Supp. 1959-63). This sentiment has been echoed by numerous legal commentators, for example:

> The economic situation of the tenant-family is one which no humane sentiment can contemplate with equanimity. It calls for a remedy. And it cannot wait for the slow and problematic readjustment of demand and supply. We may start from the proposition that common humanity requires us to seek a remedy, if one can lawfully be found.

Wigmore, *A Constitutional Way to Reach The Housing Profiteer*, 15 ILL. L. REV. 359, 360 (1921).

6. "Twenty-two states and over eighty cities have enacted open housing laws. . . ." Comment, *The Prohibition of Private Discrimination in The Rental or Sale of Real Property*, 7 WAKE FOREST L. REV. 88, 89 (1970).

7. *See, e.g.*, the prohibitions of the federal Fair Housing Act of 1968 embodied in 42 U.S.C. § 3604 (1970).

8. *See, e.g.*, ILL. CONST. art. I, § 17 (1970).

9. *See* Comment, *The Fair Housing Act: Standing for the Private Attorney General*, 12 SANTA CLARA LAW. 562, 568-71 (1972). It is the authors' observation that in a large urban area such as metropolitan Chicago, rental housing discrimination against persons with children occurs more frequently than discrimination based on religion, sex or national origin.

10. A federal rental housing insurance program has been established with the legislative directive that mortgage insurance benefits under the program be directed *primarily* to projects with adequate housing at moderate rental charges which are available to families

lated measures at the state legislative level began in 1898 and have attempted to alleviate the problem. At present, there are only six states which prohibit, in some form, discrimination in rental policies and procedures against families with children.[11]

The current Illinois statute will be the focal point of this Article's analysis. Through an examination of the intent and history of the statute, a comparison with similar statutes of other states and the conducting of numerous surveys,[12] the authors have attempted to determine the viability of the statute and also whether it is the most effective statute of its type.[13] The authors also will introduce and comment upon a proposed amendment to the current Illinois statute which will furnish an effective remedy for discrimination victims.

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with children. Pursuant to this directive, an owner seeking mortgage insurance under the program must certify that he will not discriminate against families with children and will not sell the property while the mortgage insurance is in effect to any one who does not so certify. Anyone violating such certification is subject to a $500 fine. 12 U.S.C. § 1713(b)(2) (1970).

11. ARIZ. REV. STAT. ANN. § 33-1317 (1973); DEL. CODE ANN. tit. 25, § 6503 (1975); ILL. REV. STAT. ch. 80, §§ 37-38 (1973); MASS. GEN. LAWS ANN. ch. 151B, § 4.11 (Supp. 1975); N.J. STAT. ANN. § 2A: 170-92 (1971); N.Y. REAL PROP. LAW §§ 236-37 (McKinney 1968). *See* discussion of these statutes at notes 38-52 and accompanying text *infra*.

12. The authors conducted the following surveys to gauge the effect of the Illinois family status discrimination in housing statute:

a) a survey and analysis of rental housing advertisements appearing in both metropolitan and neighborhood newspapers in the Chicagoland area during a three week period,

b) a survey and response analysis of fifty people to determine their impressions of and reactions to indications of preference appearing in the aforementioned advertisements,

c) a survey and response analysis of one hundred advertisers whose advertisements appeared in those newspapers during this three week period,

d) a survey and response analysis of the publishers of the sixteen newspapers whose rental housing advertisements were surveyed and analyzed during the three week period,

e) a survey and response analysis of the 102 state's attorneys in Illinois, and

f) a survey and response analysis of the attorneys general in Illinois and those other states with similar statutes.

13. For purposes of this study, the authors construe viability of a remedial statute as follows: the deterrence of the prohibited practice to a significant extent, together with the realization of a sufficient remedy by any victim(s) of the prohibited practice, achieved through enforcement of the statute in those instances where its mere existence did not provide a deterrent to its violation.

II. ILLINOIS STATUTE AND SIMILAR LEGISLATION

A. *Prohibited Discrimination and Its Remedy*

On June 16, 1909, Illinois, following the New Jersey example,[14] passed an act designed to prevent discrimination in rental housing policies and procedures against persons or families with children under fourteen years of age.[15] Due to the lack of reported legislative history, the intent of the legislators can only be inferred from the statute itself.[16] The authors feel that its purpose was to preserve the integrity of the family by assuring them the opportunity to reside in the apartment they desire.

An analysis of the Illinois statute indicates that it is intended to prohibit two types of rental housing discrimination. The first prohibition, exclusion discrimination, is the refusal to rent to persons or families with young children.

> It shall hereafter be deemed *unlawful* and opposed to public policy . . . *to require as a condition precedent* to the leasing of any dwelling house, flat or apartment, that the person or persons desiring . . . to lease . . . shall have . . . *no children under the age of 14 years residing in their families*. . . .[17]

The second prohibition, eviction discrimination, is the eviction of tenants because of the addition to their family of a child under fourteen years of age through birth, adoption or other means.

> [I]t shall be deemed *unlawful* and opposed to public policy *to insert* in any lease or agreement for the letting or renting of any dwelling house, flat or apartment, *a condition terminating said lease if there are or shall be any such children [under 14 years*

14. N.J.L. 1898, ch. 235, p. 794 (1898).

15. Section 3 of the original act no longer appears in the official statute and the nomenclature of the offense has been changed from "misdemeanor" to "petty offense." ILL. REV. STAT. ch. 80, §§ 37-38 (1973).

16. Since committee hearings and floor debates of either chamber in the Illinois General Assembly were not recorded in 1909, primary evidence of the express intent of the legislators in enacting the statute is unavailable. Even a search of legislative office documents of that period in the state capital has not revealed any background information on the statute. Telephone conversations with Janet Lyons, Head of Government Documents Branch, and Mary Redmond, Legislative Research Librarian, Illinois State Library, Springfield, Illinois on March 3, 1975. The authors wish to thank both of these individuals for their assistance.

17. ILL. REV. STAT. ch. 80, § 37 (1973) (emphasis added).

> *of age] in the family* of any person holding such lease and occupying such dwelling house. . . .[18]

While these two types of discrimination are specifically prohibited in the statute, they are by no means equally discernible and susceptible to enforcement. Furthermore, only the eviction prohibition affords a remedy to the discrimination victim: ". . . and any such contract or lease containing such provision shall be deemed opposed to public policy and entirely void as to such provision."[19]

In light of this express remedy, a judge should have no problem in refusing to enforce such a provision in any ejectment proceedings. However, if a tenant is unaware of the statute, it affords him no benefit. Only in the situation where a tenant, or his lawyer, is aware of the statute and the tenant is willing to be subjected to ejectment proceedings in order to have his rights to continuation of the lease upheld is such a remedy meaningful. In view of the survey results indicating the lack of awareness of the statute among both the general population[20] and Illinois state's attorneys (who are charged with the responsibility of enforcing the statute[21] and thus might be expected to be more aware of its existence),[22] the invalidation remedy scarcely qualifies as a completely effective means of either deterring or combatting the eviction type of discrimination.[23]

In regard to exclusion discrimination, there is no effective remedy available. The statute does not provide the victims any vehicle through which they might gain access to the courts to redress

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18. *Id.*

19. *Id.*

20. *See* the analysis of the Advertisement Impression Survey at notes 64-67 and accompanying text *infra*.

21. ILL. REV. STAT. ch. 14, § 5 (1973).

22. *See* the analysis of the Illinois State's Attorneys Survey at notes 81-88 and accompanying text *infra*.

23. This lack of awareness of the eviction prohibition persists despite the fact that the preprinted apartment lease form used extensively by landlords in the Chicago metropolitan area specifically states, albeit in fine print under "Tenant's Use of Apartment," that:

> The Apartment shall be occupied solely for residential purposes by Tenant, those other persons specifically listed in the Application for this Lease, *and any children which may be born to or legally adopted by* Tenant during the Term.

Chicago Real Estate Board, No. 15 Apartment Lease—Not Furnished (1974) (emphasis added).

their own grievances. Their only recourse is to file a complaint with the state's attorney's office. Should a victim of exclusion discrimination be aware of the statute's existence[24] and actually file such a complaint,[25] an imposing series of barriers to a successful prosecution still remains. First, the state's attorney's office must have sufficient manpower available to investigate and prosecute the case.[26] Second, any prosecution must overcome serious evidentiary problems.[27] Third, even if the victim is aware of the statute and has filed a complaint with a state's attorney's office and that office has successfully prosecuted the offender, the statutory penalty imposed on the offender is only a $50 to $100 fine. This minimal fine would still not provide the victim with an apartment, especially the desired apartment if it had already been rented to a bona fide tenant during the period of investigation and prosecution. Additionally, it is doubtful that a statutory penalty of such slight amount operates as an effective deterrent.[28]

B. Judicial Interpretation of the Statute

In 1946, in *People v. Metcoff*,[29] the Supreme Court of Illinois rendered the only opinion *directly* involving the Illinois statute.[30] In reversing the conviction of an alleged rental agent under the statute,[31] the court based its decision upon its finding of insuffi-

24. For an indication of the prospect of such an occurrence, *see* notes 64-67 and accompanying text *infra*.

25. For an indication of the number of complaints received and cases prosecuted by state's attorneys during the last five years, *see* note 85 and accompanying text *infra*.

26. *Id.*

27. *See* notes 29-37 and accompanying text *infra*.

28. It is interesting to note that a private scavenger who disturbs the sleep of neighborhood residents by picking up garbage prior to 7:00 A.M. may be fined an amount *ten times greater*. CHICAGO, ILL., CODE §§ 167-68 (1974).

29. 392 Ill. 418, 64 N.E.2d 867 (1946).

30. However, in a recent decision the supreme court did indicate that the statute does reflect the policy of Illinois.

> We agree that the condition that not more than 25% of the home sites may be made available to families with children violates the public policy of this State, as reflected in sections 1 and 2 of "An Act in relation to landlord and tenant".(ILL. REV. STAT. 1973, ch. 80, pars. 37, 38).

Duggan v. County of Cook, 60 Ill. 2d 107, 116, 324 N.E.2d 406, 411 (1975).

31. The defendant had been convicted in the Municipal Court of Chicago for refusing to rent a second floor apartment to a woman with three children under fourteen years of age because she could not fulfill a condition precedent that he had established that she, or any other prospective tenant, not have any children in her family under fourteen years of age. 392 Ill. at 420, 64 N.E.2d at 868.

cient evidence to sustain the charge and, therefore, found it unnecessary to rule upon the constitutionality of the statute.[32] Nevertheless, the court's decision in *Metcoff* is noteworthy because it underscores the evidentiary problems that can arise in a prosecution of an alleged violation under the statute.

The court cited three evidentiary deficiencies in the state's case, any one of which would have been fatal to a successful prosecution. First, the state failed to prove beyond a reasonable doubt that the defendant was, in fact, the person who had refused to rent the apartment to the complaining witness.[33] The complaining witness had not had any personal contact with the defendant and only had phone conversations with an individual who allegedly identified himself as the defendant.[34] Hence, if a refusal to rent is communicated during a telephone conversation, the victim must be able to identify the voice on the telephone as the voice of the alleged offender and show some basis for such an

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32. *Id.* at 423, 64 N.E.2d at 869. Although the constitutionality of this particular statute has not yet been determined, similar legislation prohibiting discrimination in housing has been upheld as constitutional. "Thus, the fact that § 1982 operates upon the *unofficial acts of private individuals*, whether or not sanctioned by state law presents no constitutional problem." Jones v. Alfred H. Mayer Co., 392 U.S. 409, 438 (1968) (emphasis added).

The Illinois Supreme Court, in upholding the constitutionality of a Chicago ordinance prohibiting housing discrimination by real estate brokers, has commented:

> The inquiry in due process cases has been whether the evil existed which affected the public health, safety, morals or general welfare, and whether the legislative means chosen to counter that evil were reasonable. If so, there is a proper exercise of the "elastic police power," and no want of due process, despite interference with individual property and contract rights. . . .[The courts] have emphasized that discrimination leads to lack of adequate housing for minority groups, which results in slum conditions, disease, crime and immorality, which endangers the entire community (citations omitted).
>
> Courts have then reasoned that laws prohibiting discrimination in housing are reasonably calculated to counter such evils, and "bring substantial progress toward the elimination of such deleterious situations." Consequently, such laws have been repeatedly sustained as a proper exercise of the police power, and not an infringement of due process of law.

Chicago Real Estate Bd. v. City of Chicago, 36 Ill. 2d 530, 541-42, 543, 224 N.E.2d 793, 801-02 (1967).

33. 392 Ill. at 421, 64 N.E.2d at 868, *citing* People v. Steinbuch, 306 Ill. 441, 138 N.E. 137 (1923).

34. 392 Ill. at 421, 64 N.E.2d at 868.

identification—an extremely unlikely possibility, especially in large urban areas where one is merely calling telephone numbers from a newspaper advertisement. Moreover, even if a refusal to rent is communicated during personal contact with the offender, the question of presenting a credible witness will not be disposed of easily, since a prospective tenant does not often view apartments with a disinterested person for the convenience of later producing a credible witness.[35] Second, the state failed to show that the defendant was either the owner of the building in question or that he had any official connection with the building.[36] Third, the state did not show that the complaining witness had ever communicated the ages of her three children to the defendant and, therefore, did not prove that the reason that the defendant refused to rent the apartment to her was because she had children *under fourteen years of age*.[37] These evidentiary problems, especially in prosecutions in urban areas, will be difficult to overcome.

C. *Similar Statutes in Other States*

Although this study is concerned primarily with the Illinois statute, a comparative examination of similar statutes in other states will lend additional insight into the question of whether the Illinois statute is viable and also whether or not it is the most effective statute possible from the standpoint of tenant protection. Presently there are six states that prohibit, in some form, discrimination in rental policies and procedures against persons or families with children.[38] Each of these states has either amended or passed these statutes or their companion penalty

35. If an investigation were conducted by a state's attorney's office, the evidentiary problems could be overcome by a "sandwich investigation." Using this approach, teams of investigators would seek to rent the apartment by appearing in the following order: 1) a team posing as a married couple without children, 2) a team posing as a married couple with a child or children of an age and number similar to the victim's, and 3) once again, a team posing as a married couple without children.

36. 392 Ill. at 421, 64 N.E.2d at 868.

37. *Id.* An even more serious problem would exist whenever an entirely different reason for refusal to rent (*e.g.*, the apartment already being rented) is communicated, even though the real reason for refusal was the existence of children under fourteen years of age in the family.

38. *See* note 11, *supra*.

statutes within the last decade. However, this recent flurry of activity should not be construed to be the culmination of an outpouring of public sentiment in all of these states.[39] Nevertheless, it is feasible to view some of this recent legislative activity as the portent of a future trend in those states with large concentrations of urban population and to view such legislation collectively as reflecting "a public policy favoring equality in housing for families with children."[40]

New Jersey, Illinois, and New York were the first states to pass statutes banning discrimination in rental housing against families with children.[41] All three statutes contain a basic prohibition against discrimination either by refusal to rent or by insertion of termination clauses in leases, but without any enforcement capability for the victims and with only minimal fines as a penalty. These statutes are considered to be the traditional type in this area because they were the first type passed and have remained substantially unchanged since 1921.[42] They do not offer any effective remedy to the prospective tenant unless they are vigorously enforced by the appropriate authorities and, further, do not acknowledge the possibility of extenuating circumstances that a landlord might experience (*e.g.*, one room "apartments," local

39. The recent New York amendment merely involved the transfer of the statute from a penal code to a real property code, and the Illinois amendment only revised the nomenclature of the offense.

40. Comment, *Landlord Tenant Reform: Arizona's Version of the Uniform Act*, 16 ARIZ. L. REV. 79, 96 (1974). Although none of the six states have yet had to determine the constitutionality of their statutes, the courts of New Jersey, New York, and Illinois have viewed their state's statutes as expressions of their state's public policy.

> But it is in the public interest that families be kept together and that children in their growing and adolescent years have the companionship and guidance of their parents. N.J.S. 2A:170-92, while not binding here, is nevertheless indicative of the tendency of public policy to favor equality of housing as between the childless and those having children in their families. The natural instinct of parents is to refuse separation from their children.

Gilman v. Newark, 73 N.J. Super. 562, 591, 180 A.2d 365, 381 (1962). *See also* Boyd H. Wood Co. v. Finkelstein, 193 Misc. 315, 316, 84 N.Y.S.2d 459, 460 (Sup. Ct. 1948); Duggan v. County of Cook, 60 Ill. 2d 107, 324 N.E.2d 406 (1975).

41. ILL. REV. STAT. ch. 80, §§ 37-38 (1973); N.J. STAT. ANN. § 2A:170-92 (1971); N.Y. REAL PROP. LAW §§ 236-37 (McKinney 1968).

42. The New Jersey statute was amended in 1948 to reduce the penalty clause. Now a person violating the law is considered to be a disorderly person, subject to a penalty of imprisonment for not more than six months, a fine of not more than $500, or both. N.J. STAT. ANN. § 2A:169-4 (1971).

health codes, elderly or infirm tenants, etc.). As such, they do not address themselves to the grave family housing situation that currently exists in the modern urban areas.[43]

In the past four years three other states have passed or amended rental statutes banning discrimination against families with children. These are variations of the "traditional" statutes and can be grouped into three basic categories: (1) legislation that also prohibits the advertisement of a restriction against children, accompanied by a stringent penalty provision;[44] (2) legislation that includes a *limited* exclusion in favor of landlords with elderly or infirm tenants;[45] and (3) legislation that prohibits either refusal to rent or the charging of a higher rent because of children, accompanied by a unique remedy allowing the victim to sue the alleged violator and recover damages.[46]

The Arizona statute[47] contains two sections designed to be of greater benefit to the prospective tenant than the traditional sanction: (1) the more severe penalty for both the first conviction ($100-$500 fine) and subsequent convictions ($500 fine, 3 months imprisonment, or both); and (2) the prohibition of discriminatory advertising in any form, intended to reduce the flagrant abuse of the statute and the ease of implementing discriminatory practices.

The Massachusetts statute[48] incorporates the first concession to landlords insofar as it excludes from coverage those dwellings with *three apartments or less*, if one of those apartments is occupied by an elderly or infirm person.[49] Unfortunately, the definition of an "infirm person" as one who is disabled or suffering a "chronic illness," absent any other guidelines, will pose continual evidentiary problems. In addition, Massachusetts has a state agency empowered to investigate and prosecute housing discrimi-

43. "Housing shortage for families is so acute." Questionnaire response from Louis J. Lefkowitz, New York Attorney General, by Dominick J. Tuminaro, Assistant Attorney General, May 1, 1975.

44. ARIZ. REV. STAT. ANN. § 33-1317 (1973).

45. MASS. GEN. LAWS ANN. ch. 151B, § 4.11 (Supp. 1975).

46. DEL. CODE ANN. tit. 25, § 6503 (1975).

47. ARIZ. REV. STAT. ANN. § 33-1317 (1973).

48. MASS. GEN. LAWS ANN. ch. 151B, § 4.11 (Supp. 1975).

49. It would seem that this statute does not exempt from coverage a new concept in apartment life, the "adult building."

nation complaints.[50]

Only the Delaware statute offers the prospective tenant the right to sue the discriminating landlord and obtain actual "damages sustained as a result of the landlord's action."[51] Such damages are difficult to prove and do not have the deterrent effect of statutory punitive damages.[52] This statute also prohibits discrimination accomplished by higher rentals.

It is evident that there is no consensus among the six states regarding the most effective means of prohibiting family status discrimination in rental housing policies and procedures. Collectively the following remedial propositions can be noted: (1) family status discrimination in rental housing, either by refusal to rent, insertion of termination clauses, charging of higher rent, or advertising discriminatory restrictions, has been prohibited; (2) a dwelling of three apartments or less with one of the apartments occupied by an elderly or infirm person has been excluded from coverage; (3) criminal sanctions range from $50 to $500 and six months imprisonment; and (4) potential enforcement ranges from criminal prosecution only by proper law enforcement authorities to civil litigation by victimized prospective tenants. However, not one of these statutes encompasses all of these remedies.

III. DISCRIMINATORY APARTMENT RENTAL NEWSPAPER ADVERTISEMENTS

A. Chicago Metropolitan Area Newspaper Survey and Analysis

During the three-week period from February 9, 1975 through March 1, 1975, the authors conducted a survey of apartment rental advertising in sixteen newspapers circulated in the Chicago metropolitan area.[53] The purpose of the survey was to confirm the

50. MASS. GEN. LAWS ANN. ch. 151B, § 5 (Supp. 1975).

51. DEL. CODE ANN. tit. 25, § 6503 (1975).

52. The original statute provided criminal sanctions of not more than $500 fine, one year imprisonment, or both. DEL. CODE ANN. tit. 25, § 6705 (1953).

53. In order to depict an accurate portrayal of the rental housing market throughout the entire Chicago metropolitan area, three types of newspapers were selected for analysis: metropolitan newspapers, Chicago neighborhood newspapers, and suburban newspapers. All three types of newspapers, even those local in nature, generally included both city and suburb rental advertisements. Three metropolitan newspapers with a general circulation

existence of rental advertisements inconsistent with the statutory prohibition of discrimination against persons with children under fourteen years of age and to determine the extent of such advertising. The authors feel that the extent of such advertising is an accurate indicator of both the deterrent effect and the current enforcement of the statute.

In conducting this survey, the authors analyzed each consecutive issue of these newspapers[54] (limited to one edition per day in the case of daily newspapers) whenever possible.[55] During the course of this survey, the authors analyzed 34,617 advertisements and discovered that 5,842 (16.88%) of them contained indications of discriminatory preferences against persons with children under fourteen years of age. Of these 5,842 advertisements analyzed and deemed to contain indications of a discriminatory preference, there were 1,513 different advertisements involved.[56]

The authors have broken down these survey totals into various

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were analyzed: the Chicago Tribune, the Chicago Sun-Times, and the Chicago Daily News. Also analyzed was the Chicago Defender, a metropolitan newspaper with a more limited circulation concentrated in the black communities. Twelve neighborhood and suburban newspapers were analyzed because they primarily serve *specific* sections of the Chicago metropolitan area: Berwyn/Cicero Life, The Trib (Area 1), Suburban Life, (Sw. and W. Suburbs); Suburbanite Economist, (S. and Sw. Chicago and Suburbs); Western Springs Citizen, (Sw. Suburbs); Forest Park Review, (W. Suburbs); Oak Leaves, (W. Chicago and Suburbs); West Side Times, (Cent. and W. Chicago); Buffalo Grove Herald, (Nw. Suburbs); Harlem-Foster Times, Belmont Central Leader, Portage Park News, (N. and Nw. Chicago and Suburbs).

54. *See* the Newspaper Analysis Data Folder in the DePaul Law Review office for a breakdown of the issues analyzed; the results of such analysis for each newspaper surveyed; and the analysis of each of the 129 issues in the survey. The lower number of issues of the neighborhood and suburban newspapers reflects the fact that the majority of these newspapers are published less frequently.

The authors wish to gratefully acknowledge the assistance of Mary Ann O'Brien and Janice Fitzgerald for their valuable assistance in compiling this survey.

55. It is obvious that in such a survey of consecutive issues an advertisement was analyzed as many times as it was published. However, it is also true that such an advertisement might just as easily have been deemed to be one indicating no discriminatory preference as one indicating it. Furthermore, an issue of any of these newspapers, even if it contained advertisements previously analyzed, could have been the issue used by a prospective tenant and, as such, would have been the primary vehicle conveying a landlord's discriminatory preference. Therefore, although a particular rental unit might have been analyzed more than once, this does not tend to invalidate the results of the survey.

56. For a categorization of these advertisements into various discriminatory preferences, *see* Appendix A-3. *See also* notes 64-67 and accompanying text *infra*, for an explanation of the criteria used to determine discriminatory preference.

comparative summaries, including such comparisons as multiple unit availability versus single unit availability,[57] Chicago apartment versus suburb apartment advertisements, furnished versus unfurnished apartment advertisements.[58] Although any number of observations may be made from this survey results, the authors feel that the following interpretations merit special comment.

(1) The percentage of advertisements indicating discriminatory preferences (16.88%) reveals that one of every six landlords did not want tenants with children under fourteen years of age.
(2) A comparison between multiple unit availability and single unit availability reveals that advertising landlords with only one rental unit available wanted tenants with children under fourteen years of age to a significantly lesser degree (19.5%) than landlords with more than one available unit (9.8%).[59]
(3) Discrimination in apartment rentals against persons with children under fourteen years of age is not limited to any particular location; rather, it pervades the entire Chicago metropolitan area.
(4) There is a greater incidence of discrimination in Chicago than in the suburbs, ranging from 46% greater (single unit availability, unfurnished apartment rentals) to 199% greater (multiple unit availability, furnished apartment rentals).[60]
(5) There is a greater incidence of discrimination in furnished apartment rentals than in unfurnished apartment rentals, ranging from 49.6% greater (multiple unit availability, suburban apartment rentals) to 167.4% greater (multiple unit availability, Chicago apartment rentals).[61]

57. The purpose of this breakdown was to determine whether individual landlords with a small number of rental units discriminated more than large housing entities (*e.g.*, apartment management firms, corporate landlords, and apartment complex developers) with many units available. The authors felt that the large housing entities would be less apt to discriminate for the following reasons: 1) the larger number of units to rent and the frequency of continual vacancies would make such discrimination a financial liability; 2) such entities do not live in their apartment buildings; 3) the greater likelihood that such entities would retain counsel who would be aware of the statute; and 4) the financial wealth and volume of rental units controlled by such entities would make them prime targets for enforcement of the statute.

58. *See* Appendices A-1 and A-2.

59. See note 57, *supra*.

60. The authors feel that this is due to the greater acceptance of children in the suburbs, possibly due to the lower average age of suburbanites.

61. This situation reflects: 1) the furnished apartments were smaller than the unfurnished apartments and 2) the supplying of furniture by the landlord gives him a greater

The pervasiveness of family status discrimination in the Chicago metropolitan area is evident not only in the comparative summaries of the survey results but also in the analyses of each of the sixteen newspapers examined.[62] Half of those newspapers contained apartment rental advertisements reflecting a discriminatory preference at a rate higher than 20%; only four of the newspapers contained rental advertisements at a rate below 10%.[63]

We next questioned how prospective tenants would react to such advertisements and whether such an apparently high incidence of advertisements indicating a discriminatory preference existed, at least in part, because prospective tenants were unaware of the Illinois statute.

B. Advertisement Impression Survey and Analysis

To ascertain the reasonableness of the criteria used in determining whether an advertisement was discriminatory,[64] the authors surveyed fifty people.[65] They attempted to discover how apartment rental advertisements containing a discriminatory preference are interpreted by the general public and what is the effect of these advertisements.

The survey consisted of seven questions. One question elicited the interviewees' awareness of the Illinois statute; six questions sought their reactions to apartment rental newspaper advertisements.[66] Seventy-eight percent of the persons questioned were unaware of the existence of the statute. Such a response lends credence to the authors' belief that the general public is generally ignorant of the statute. Significantly, 92% to 98% of the interviewees believed that apartment advertisers who inserted

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financial stake in the apartment.

62. *See* Appendix A-4.

63. Since the *Chicago Tribune* contained 39.7% of all the advertisements analyzed, and since their rate of discrimatory advertisements was 8.04%, the overall incidence was substantially lowered. Similarly, the low 7.6% incidence in the Chicago-North section reflects the volume of Chicago-North advertisements that appeared in the *Chicago Tribune*.

64. *See* the summary in Appendix A-3.

65. The fifty people interviewed were selected at random. They included single and married adult persons of various ages and ethnic backgrounds, with and without children, who lived within the Chicago metropolitan area as apartment dwellers and homeowners.

66. *See* Appendix B.

such preferences as "Adults," "Adults Only," "Mature Couple," "Retired Couple," "Middle-Age," and "Pensioners" would not rent apartments to families with children under fourteen years of age.[67] Even when the advertisement contained only a mild indication of preference, such as "ideal for" or "Small Child OK," 46% to 68% of the interviewees felt that such advertisers would not rent to families with children under fourteen years of age. An additional 12% to 28% of the interviewees believed that successful rental was *only a possibility*. Finally, 82% of the interviewees indicated that if they had children under fourteen years of age, they would not even contact advertisers who indicated that they would not rent to persons with children of such age.

These results confirmed the authors' presumption that the general public is unaware of the Illinois statute; a fact which obviously mitigates in favor of the discriminating landlord. The next logical step was to determine how accurate these discriminatory indications were.

C. *Apartment Rental Advertisers Survey and Analysis*

In order to determine if the authors' analysis of the discriminatory advertisements was accurate, and to ascertain some of the reasons for such discrimination, a random selection of one hundred of the surveyed advertisers was developed. Fifty percent had placed discriminatory advertisements.[68] Sixty-six percent of the discriminating advertisers affirmed the indications of discriminatory preference and stated they would not rent to families with children; and 12% of the nondiscriminatory advertisers expressed this same policy.[69] Six percent of the discriminating advertisers inserted provisions in their leases concerning children;

67. *See* the summary in Appendix A-3.

68. *See* the individual Survey Contact Reports in the DePaul Law Review office for a summary of the responses.

69. Even though only 66% of the 16.88% of the discriminating advertisers actually discriminate, this fact still results in a determination that at least 11.14% (rather than 16.88%) of all apartment rental advertisers will not rent to persons with children. Of the 83.12% of the advertisers who had been characterized earlier as not discriminating, 12% of them actually do discriminate, thus revealing that *an additional 9.97%* of apartment rental advertisers won't rent to persons with children. Therefore, a total of 21.11% of apartment rental advertisers do discriminate.

while none of the nondiscriminating advertisers inserted such provisions.

In the course of these interviews, the advertisers were asked whether they were aware of the existence of the Illinois statute and applicable penalty, whether they would be concerned about violating the law once they were aware of it, and whether they would favor amending the current statute to enable the discrimination victims to sue the landlords directly.[70] Among the discriminating advertisers, 78% were not aware of the statute and penalty, 12% were aware of its existence, and the remainder had no comment. Among the nondiscriminating advertisers, 64% were unaware and 36% were aware of the statute and penalty. Forty-eight percent of the discriminatory advertisers were not concerned with violating the statute, 40% were concerned, and the remainder had no comment. Fifty-two percent of of the nondiscriminating advertisers were not concerned with violating the statute, 20% were concerned, and the rest had no comment. With respect to the private attorney general concept, 10% of the discriminating advertisers favored such legislation, 12% did not, and the remainder expressed no opinion. Six percent of the nondiscriminating advertisers favored the legislation and the remainder did not comment.

The concerns of the discriminating advertisers seemed to focus on four primary motivating factors: (1) the apartments in question were too small to accommodate children adequately; (2) conditions in the apartment or the building posed a threat to a child's safety; (3) the landlords did not want to risk the possible destruction of property in the apartment or building by the children; and (4) the landlord has the right to select his tenants.[71] A majority of the comments of the nondiscriminating advertisers were markedly parallel to those of the discriminating advertisers.[72]

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70. *See* 42 U.S.C. §§ 3610-12 (1970) for an example of how the private attorney general concept has been incorporated into the Fair Housing Act of 1968.

71. Some of the more interesting comments were: 1) The tenant has to share a bath. 2) Why doesn't the *[Chicago] Tribune* let us know that such discrimination is illegal? 3) Consider the need for peace and quiet. *See* the individual Survey Contact Reports in the DePaul Law Review office for an analysis of the comments of each interviewee.

72. *Id., e.g.*, 1) It is terrible to discriminate. 2) It is the management's policy to try to hold down children in co-operation with the school district. 3) It is one of many unknown statutes.

It would be difficult to conduct a survey of landlords such as this and not be impressed by both the intensity of emotions surrounding this particular issue of disposition of one's property in accordance with one's own preference, and by some of the particular reasons for the landlords' various preferences. Not all of these concerns expressed by landlords should be dismissed cavalierly as unfounded excuses for perpetuation of discrimination.[73]

D. Newspaper Publishers Survey and Analysis

The authors submitted a questionnaire to the publishers of the sixteen newspapers whose apartment rental advertisements had been analyzed in order to elicit their opinions concerning the statute and to procure information concerning present and future advertising policy determinations.[74] The questionnaire consisted of the following inquiries: awareness of the Illinois statute; publication of some form of notice concerning prohibited discrimination; receipt of customer complaints; newspaper policies under the current statute; apartment rental advertisement revenue; the possibility of newspaper policy changes; the viability and practicality of the statute; and whether it ought to be repealed. The authors did not anticipate receiving an overwhelming response to this questionnaire in view of the extensive amount of discriminatory advertisements published by these newspapers, the potentially sensitive public relations position caused by such publication, and the understandable concern of these newspapers

73. The authors would like to comment, however, upon the opinions expressed by some interviewees that they would either sell their apartment buildings or remove them from the rental market if they were forced to rent to families with children. Although this type of argument has been expressed in the past in conjunction with various fair housing laws, the authors do not feel either that the apartment rental market has decreased because of landlords carrying out such a threat or that this argument should be given substantial credence in any discussion of revision of the current statute. Similarly, a contention that the victims of the more recognized types of housing discrimination might be able to obtain comparable housing from a non-discriminating landlord was not deemed to be sufficiently relevant to preclude the enactment of protective federal, state and municipal fair housing measures. The same irrelevant argument should not hinder the amendment or enactment of measures providing the same protection from family status discrimination in rental housing.

74. *See* the Publishers Questionnaire and Correspondence Folder in the DePaul Law Review Office for a copy of the questionnaire and letters sent and an analysis of the correspondence received.

with any questions involving first amendment rights.

True to these expectations, only two newspapers, the *Chicago Tribune* and *The Trib*, responded to the survey.[75] In nearly identical responses they refused to complete the questionnaire, indicating that they felt that it would be "extremely burdensome"[76] to do so, but that it was their policy to encourage their advertisers "to comply with all legal requirements affecting them." The *Chicago Tribune* was the only newspaper ultimately willing to answer some questions during a subsequent telephone conversation.[77]

The *Tribune* does feel that the responsible parties in its office are aware of the current Illinois statute. However, it would not be willing to publish a notice in its apartment rental section informing its readers of the prohibition of family status discrimination without a statutory amendment prohibiting publication of rental housing advertisements which indicate a preference against persons with children under fourteen years of age.[78] With-

75. Letters from D. M. Robertson, Sales Manager, Classified Advertising, *Chicago Tribune*, April 4, 1975 and James C. Leatham, Advertising Manager, Area Publications Corporation (publisher of *The Trib*), April 7, 1975 to James M. O'Brien, on file in the DePaul Law Review office.

76. The authors feel that a close examination of both the length of the questionnaire and the complexity of the questions would hardly lead to a characterization of the questionnaire as "extremely burdensome," especially when compared to the law enforcement surveys, discussed at notes 81-91 and accompanying text *infra*.

77. Telephone conversation with George Van Wagner, Classified Advertising Department, *Chicago Tribune*, April 9, 1975. The responses herein are paraphrases of Mr. Van Wagner's telephone comments, but every effort has been expended to represent his remarks as accurately as possible.

In view of the fact that the *Chicago Tribune* (hereinafter the *Tribune*) contained the largest number of apartment rental advertisements analyzed during the survey period and is one of the largest newspapers in the state, we feel that their responses are representative of the positions of the other newspapers surveyed.

78. Mr. Van Wagner indicated that the advertising section is considered as a reference section for the convenience of the readers, and there is insufficient space to print all the notices which they are requested to publish. He said that they publish the current notice only as a courtesy to HUD (Department of Housing and Urban Development). This notice is approximately 2" x 2¾", appears in Sunday editions, and reads as follows:

> EQUAL HOUSING OPPORTUNITIES
>
> Federal law and Illinois Constitution prohibit discrimination based on race, color, religion, national origin, sex or mental and physical handicaps in connection with the sale or rental of real estate. The Chicago Tribune does not knowingly accept advertising in violation of these laws.

Chicago Tribune, Feb. 9, 1975, § 12, at 2, cols. 5-6. Reference to "Illinois law" and the

out such an amendment, the *Tribune* indicated that it was under no legal duty to refuse to publish rental housing advertisements which contain such discriminatory preference.[79] The *Tribune* does not plan any changes in policy in these areas and stated that it does not view this situation as a "burning issue" because families being discriminated against appear to be able to secure alternative housing elsewhere.

If one reflects upon the widespread ignorance of the Illinois statute, the importance of the newspaper, although a private entity, cannot be underestimated since it has an extraordinary capability of disseminating information.[80]

IV. Law Enforcement Agency Surveys

A. *Illinois State's Attorneys Survey and Analysis*

Under Illinois law, the state's attorneys in the 102 counties throughout the state are the only persons empowered to investigate and prosecute violations of this statute.[81] Therefore, its viability is completely dependent upon the character of its enforcement by the state's attorneys' offices. In view of this situation, a detailed questionnaire,[82] together with a cover letter outlining its purpose, was sent to each of the 102 offices.[83] Ultimately, respon-

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discrimination basis of "children under 14 years of age residing in a family" are conspicuous by their absence. In view of the fact that in a Sunday edition as many as eight pages and seventy-seven columns are devoted to apartment rental advertisements, and that necessary additions to the size of the current notice would be minimal, the authors fail to find this space limitation rationale at all compelling.

79. Mr. Van Wagner did point out that they do advise each advertiser of the existence of the child discrimination statute and the potential liability involved, but he still felt that a decision to refuse to publish a rental advertisement containing such discriminatory preferences would be bordering on censorship.

80. The authors remain extremely interested in the questions propounded in this newspaper publishers survey and would welcome a complete response to this questionnaire from any or all of the newspapers analyzed.

81. Ill. Rev. Stat. ch. 14, § 5 (1973).

82. The survey was conducted with a series of companion questions enabling the authors to verify the accuracy of the responses.

83. Four weeks later, duplicate questionnaires were sent to those state's attorneys who either had failed to respond to the initial request or had not furnished a complete response. It should be noted that not all the respondents answered each question in detail. *See* the Illinois State's Attorneys Questionnaire and Correspondence Folder in the DePaul Law Review Office for copies of the questionnaire, letters, and an analysis of the responses.

ses were received from 48 offices (47.1%), including those in eight of the ten most populous counties.[84]

The first inquiry in the questionnaire concerned their awareness of the statute and the extent of discrimination in their county. Approximately 49% of the respondents admitted that the attorneys in their offices *were not even aware of the statute*. Furthermore, from 76.2% to 90.5% of the responding state's attorneys felt that the "typical" housing rental market advertiser, landlord and consumer in their counties were not aware of the statute. Forty-one percent of the respondents indicated that *they did not have any idea* of the amount of family status discrimination reflected in the advertising in their counties.

Another inquiry pertained to consumer complaints and investigation and enforcement of the statute absent such complaints. *Only two* consumer complaints occurred statewide *during the entire period from 1970 through 1975*[85] and no one indicated that his office investigated and enforced the statute without such complaints. Only three offices periodically scrutinized the advertising in their counties for discriminatory rental practices.

In response to the inquiries concerning enforcement manpower availability and utilization, it was revealed that an average of *less than forty minutes per county per year* were spent investigating and prosecuting the statute. Moreover, there were *no prosecutions* conducted from 1970 through 1974. Seventy-one percent of the respondents felt that they had sufficient manpower allocated to enforce the statute with deterrent effect. This response is highly questionable in view of the small amount of time spent investigating and prosecuting complaints over the past five

84. *See* the Viability Questionnaire Cumulative Summary in the DePaul Law Review Office. Although the authors are grateful to all of those state's attorneys who responded, we especially would like to thank the state's attorneys of the following counties for the time and efforts which they expended to respond to the questionnaire in great detail: Brown, Clark, Cook, Crawford, Cumberland, De Kalb, De Witt, Edgar, Fayette, Fulton, Gallatin, Hancock, Iroquois, Jackson, Kankakee, Lake, Lawrence, Lee, Livingston, Logan, Macoupin, Madison, Marshall, Mason, McDonough, Montgomery, Morgan, Moultrie, Peoria, Pope, Pulaski, Putnam, Rock Island, Scott, Stephenson, Wabash, Wayne, and Winnebago.

85. A few state's attorneys indicated that they could not give a response for the years of 1970, 1971, and/or 1972 because they were not in office during that period and did not feel that they could comment accurately about their predecessor's term of office.

years. Furthermore, 63.4% of the respondents indicated that their offices did not have any additional manpower which realistically could be utilized to aid investigation and enforcement of the statute.

Another inquiry concerned the effectiveness of the statute. Only two state's attorneys felt that the existing statute and their enforcement of it is having a deterrent effect in their counties. Surprisingly, in view of the aforementioned responses, only 31.2% of the respondents felt that the statute was *not viable* in their counties, and only 12.5% felt that stronger sanctions and/or larger fines would increase its effectiveness.

Considering the very minimal enforcement of the statute reflected in the state's attorneys responses, it was interesting that only 38.2% of the respondents were in favor of amending the existing statute "to incorporate the private attorney general concept similar to that utilized in the federal Fair Housing Act of 1968," and only 21.2% of the respondents felt that such an amendment would ease their current enforcement burden.[86] On the other hand, 34.6% of the respondents felt that such an amendment "would furnish the consumer a more effective remedy than the existing one."[87]

Approximately 65% of the respondents were of the opinion that the statute should be amended to allow landlords some latitude in rental policies for reasons of general health and safety. For the same reason, 75.8% of the respondents felt that landlords should be allowed to preclude families with children of any age from rental housing containing one bedroom (or sleeping area) or less. Finally, 90% of the respondents *did not* favor repeal of the statute.[88]

86. The responses that follow are representative of those given as explanations of the answers to this question. One who favored the amendment said: "Undoubtedly, any relief welcome." (Logan County). Those opposing the amendment said: "Because in our county we don't tolerate discrimination of any kind and everybody here knows it." (Lee County); "Because it is not our duty to enforce." (Madison County); "Average complainant not sophisticated enough." (Kane County).

87. Additional comments favoring the amendment: "[O.K.] in counties which are understaffed." (Fulton County). Opposing the amendment: "Unnecessary duplication." (De Kalb County); "Centralized law enforcement is more effective for uniform policy and prosecution." (Moultrie County); "Because a local prosecutor is better able to enforce the laws than some appointed statewide bureaucrat." (Lee County).

88. Some additional comments received regarding the questionnaire were: "Chap. 80 §

In view of these responses, the obvious conclusion is that effective enforcement of the statute is virtually nonexistent. This lack of enforcement has resulted and will continue to result in the ability of advertisers to discriminate in rental housing with complete impunity so long as the current statute remains unchanged, or until prospective tenants with children bring pressure to bear upon the state's attorneys to prosecute discriminating landlords.

B. Attorneys General Survey and Analysis

As an adjunct to the Illinois state's attorneys survey, the authors conducted a similar survey of the attorneys general of the six states with such statutes.[89] The survey was designed to determine: (1) the exposure of the attorneys general to their respective statutes; (2) their involvement with the enforcement of these statutes; and (3) to obtain their opinions regarding the viability of their statutes. Only four attorneys general responded to the questions presented.[90]

These responses,[91] primarily due to a professed lack of jurisdiction, are of little significance other than to support the results of

37 has not been a significant problem in this office for a period in excess of two years." (Cook County); "To my knowledge there has been little publicity relevant to this statute. With more publicity—more complaints and then more prosecutions." (Winnebago County); "The problem in our county is not with the landlords, but with the tenants." (Scott County).

89. Despite the fact that the Delaware Attorney General has minimal responsibilities because a private citizen can bring suit, a questionnaire was submitted to him.

90. *See* the Attorneys General Questionnaire and Correspondence Folder in the DePaul Law Review office. Three attorneys general adequately completed the questionnaire: Arizona, Delaware, and New York. The New Jersey Attorney General referred it to the Division of Civil Rights of the Department of Law and Public Safety of that state. The director of that agency, Mr. Vernon Potter, while responding to certain questions, indicated that his office was not responsible for enforcing the New Jersey statute. The Massachusetts Attorney General's office referred the questionnaire to the Massachusetts Commission on Discrimination, from whom the authors have not received a response. The Illinois Attorney General also declined to complete the questionnaire, stating that his office had not had occasion to address itself to the subject nor to compile data on such matters because his office was not empowered to enforce the statute.

91. The following comments were the only additional remarks received along with the regular responses to the questionnaire: "What few complaints we have received which would involve this provision concerned landlords refusing to rent to families with three or more children. No action was taken and the families sought housing elsewhere." (Arizona); "To my knowledge D.A.'s in large cities accord low priority to prosecution of such complaints." (New York).

the Illinois state's attorneys survey. Nevertheless, the authors did sense a general lack of exposure to the respective statutes on the part of the respondents which would seem to indicate a dearth of both consumer awareness and enforcement of these statutes.

V. Conclusions and Recommendations

In reaching any final determination regarding the viability of the Illinois statute, the following conclusions, derived from the research and surveys discussed in this article, merit attention. A distressingly large majority of Illinois residents, as well as at least 40% of the state's attorneys, are unaware of the existence or contents of the statute. Due to this lack of awareness, victims of the prohibited discrimination are not filing complaints against discriminating landlords and without these complaints state's attorneys are not enforcing this statute. Sociological and personnel priorities within the offices of the state's attorneys further limit their enforcement efforts. Landlords in the Chicago metropolitan area are precluding families with children under fourteen years of age at a rate of 16.9 to 21.1%,[92] thereby limiting the available apartment rentals in this market. This market is made even smaller by the large number of discriminatory apartment rental advertisements published, since prospective tenants are unlikely to even contact such advertisers in order to explore the possibility of the acceptance of children. In addition, newspapers are loath to voluntarily limit or abandon the publication of this type of advertisement due to the economic benefits derived from them as well as their concern with first amendment rights. The cumulative weight of these observations has led the authors to conclude that Ill. Rev. Stat. ch. 80, §§ 37-38 (1973) is *not a viable statute whatsoever.*[93]

Since it is not functioning in its present form and since there is a definite need for such a statute in modern urban living, the authors propose that Ill. Rev. Stat. ch. 80, §§ 37-38 (1973) be amended by the following suggested legislation.

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92. *See* note 69 and accompanying text *supra.*

93. *See* note 13 *supra* for the authors' definition of viability.

THE ILLINOIS CHILDREN IN HOUSING ACT

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

§ 1. Sections 37 and 38 of Chapter 80 of the Illinois Revised Statute are hereby repealed.

§ 1-1. This Act may be cited as the Children in Housing Act.

§ 1-2. Definitions: In this Act the following definitions will apply unless otherwise indicated:

(a) *Rental building*: any building, dwelling house, mobile home, hotel or other structure which contains one or more living units not occupied by the owner of such living unit.

(b) *Living unit*: any apartment, flat, dwelling house room, hotel room, mobile home interior or other premises within a rental building designed, adapted, utilized or occupied as a place of habitation by one or more persons.

(c) *Rent* or *Rental*: the agreement between any owner of a rental building or living unit to allow a person to occupy or possess a living unit in return for the payment of money.

(d) *Lease*: the rental agreement in subsection 1-2(c) reduced to written terms.

(e) *Person*: any individual, company, corporation, partnership or other association.

(f) *Landlord*: the person entering into a rental agreement for a living unit on behalf of the owner of such living unit and whose responsibility it is to manage the operation of such living unit or rental building.

(g) *Tenant*: the person occupying or possessing a living unit by virtue of a rental agreement.

(h) *Owner*: the owner or any agent of the owner of a rental building or living unit.

§ 2. It shall hereafter be deemed unlawful and opposed to public policy upon the part of any owner of any living unit, undertaking to rent the same, to:(a) require as a condition precedent to the rental of any living unit, that the person desiring to rent such living unit have no children residing in their families;(b) demand or receive a greater sum as a rental fee for the use and occupancy of any living unit because the person renting or desiring to rent such living unit has a child or children residing in their families; or(c) insert in any lease a condition terminating

> said lease if there are or shall be any children in the family of any person holding such lease and occupying such living unit, and any such lease containing such provision shall be deemed opposed to public policy and entirely void as to such provision.

Comment: This section retains the condition precedent and lease provision prohibitions (exclusion and eviction) from the previous statute. The age demarcation of 14 years has been abandoned for two principal reasons: (1) the authors have failed to discover any compelling argument for the maintenance of such an arbitrary differentiation;[93.1] and (2) if the protection of the unity and integrity of the family is one of the primary goals of this and similar statutes, such protection certainly warrants continuation beyond a child's elementary school years. The prohibition of higher rental fees, as found in the recently amended Delaware statute,[94] has been added to prevent the infliction of economic hardship upon discrimination victims or to effectively exclude them. Thus, this section addresses itself to and prohibits the three primary means of direct discrimination employed by the owners of rental buildings against persons with children.

> § 2-1. Section 2(a) above shall not apply to any living unit whenever the rental by its owner to the person desiring to rent such living unit with children residing in their families is in violation of space requirements embodied within a reasonable local housing code which is in full force and effect.

Comment: This subsection is designed to avoid a possible conflict with *reasonable* local housing codes which might place a restriction upon the number of persons who may occupy a particular type of living unit, such as one bedroom apartments. This provision will alleviate one of the major concerns of landlords that an apartment is too small for children. Without this provision, an owner might find himself in a situation where he would be in violation of the law for refusing to rent a small apartment to a large family.[95] While this subsection is a compromise between the

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93.1. None of the other five states with such statutes have seen fit to similarly limit the effectiveness of their respective statutes by the inclusion of such an unacceptable age differentiation, possibly due to the realization that no longer do children join the labor force on a full-time basis as early in their lives as they did in 1909.

94. DEL. CODE ANN. tit. 25, § 6503 (1975).

95. *See, e.g.*, CHICAGO, ILL., CODE §§78-16.1 and 78-16.2 (1974), which regulate space

landlords' concern over space limitations and the rental needs of families, the exemption which the subsection provides must be based upon reasonable health considerations contained in a valid local housing code and does not negate the intent of the statute insofar as large families are concerned. This potential exemption of some relatively small apartments from coverage under the statute will not affect the constitutionality of the statute.[96]

> § 2-2. Section 2(a) above shall not apply to a rental building *if, within one year and one day* from either: (1) the effective date of this Act; *or* (2) the date on which the living units within such rental building are first made available for rent; *or* (3) the date on which such rental building is sold or otherwise conveyed in fee simple; the owner of any such rental building shall:
> (a) have filed or caused to have been filed an Adult Building Certificate with the recorder of the county in which such building is located; *and*
> (b) have rented or caused to have been rented 50% or more of the living units in such rental building to elderly or infirm persons.

Comment: This subsection is designed to make the statute compatible with an emerging concept in housing, the "adult living" building or complex designed as a quiet environment for senior citizens, and to provide the same type of environment for disabled persons. It will enable an owner to commit his premises to senior citizens and disabled tenants by declaring his intent to do

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requirements for family dwelling units and for sleeping rooms. They require not only more square footage in family dwelling units with greater occupancy, but also minimum amounts of square footage in the sleeping rooms of such units, depending upon the number of occupants of the sleeping rooms.

96. The Supreme Court of Illinois has stated:

> The legislature is under no duty to extend regulatory measures to all fields in which there may be abuses, and it may confine its restrictions to those classes of cases where the need is deemed to be the clearest. . . . It is a legislative question whether an evil exists which requires means to be taken for its suppression and what those means shall be, and its acts to that end will not be interfered with unless clearly in violation of some constitutional limitation. The legislature may consider degrees of evil and is not bound to pass such a law as will meet every case. It has wide discretion in classifying the objects of its legislation and such classification need not be scientific or logically appropriate. If uniform within the class and not palpably arbitrary it will be sufficient.

Chicago Real Estate Bd. v. City of Chicago, 36 Ill. 2d 530, 545-47, 224 N.E.2d 793, 803-04 (1967).

so and then by making the commensurate commitment of living units within a year and a day. This period furnishes an owner sufficient time to make and declare such commitment and also, once this is made, to serve present tenants with adequate notices of nonrenewal of their leases, if the owner so desires, thereby facilitating the effectuation of such commitment. This subsection will be upheld as constitutional.[97]

> § 2-2.1. For the purposes of subsection 2-2 above, "elderly person" shall mean a person sixty years of age or over, and an "infirm person" shall mean a person who is seriously disabled or suffering from a chronic illness. Proof of such disability or illness shall be by certification from a practicing physician of this State.

Comment: This subsection reflects the Massachusetts concept of limited exemption involving *only* elderly and infirm persons, and adaptations of the definitions of the Massachusetts statute have been incorporated herein.[98] Although the definition of "infirm person" might be attacked as vague or ambiguous, more precise terminology has not been implemented because of the hazard of arbitary classification. The disability certification requirement should alleviate this problem somewhat. This limited exemption will not materially negate the intent and effect of this statute.

> § 2-2.2. Once the owner of such rental building shall have complied with the filing requirement of subparagraph (a) of subsection 2-2 above, section 2(a) of this Act and subparagraph (b) of subsection 2-2 above shall not apply to such rental building for the *remainder* of the applicable period of one year and one day of subsection 2-2 above, thereby allowing the owner of such rental building that remaining period to comply with the requirement of subparagraph (b) of subsection 2-2 above.

Comment: This paragraph of subsection 2-2 tolls the application of section 2(a) during the entire 366 day commitment period set forth in subsection 2-2, thereby allowing a landlord to (1)

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97. The constitutionality of this subsection is supported by the same reasoning and decision as outlined in note 96 *supra*, and the Comment accompanying subsection 2-1 *supra*.

98. MASS. GEN. LAWS ANN. ch. 151B, § 4.11 (Supp. 1974).

declare the formal commitment of his premises to senior citizens or infirm people at an early stage of the commitment period, (2) thereby toll the application of section 2(a) to his premises for the remainder of the commitment period, and (3) then utilize that remaining portion of the 366 day commitment period to effectuate the commitment of his premises required under subparagraph (b) of subsection 2-2.

> § 2-2.3. Should the owner of such rental building, after having complied with the requirements of subsection 2-2 above, rent one of the living units in such rental building to a person with children residing in their families, such action on the part of the owner shall automatically revoke any Adult Building Certificate filed for such rental building in accordance with subparagraph (a) of subsection 2-2, and such action shall thereafter prevent such owner from renewing, refiling or filing an Adult Building Certificate for such rental building under subparagraph (a) of subsection 2-2.

Comment: This provision embodies the sanction which prevents an owner from utilizing the Adult Building Certificate merely as a superficial means of avoiding application of section 2(a) to his premises. It requires each owner either to stand by his commitment of the premises as an adult building even to the extent of possibly suffering financial hardship or else face automatic revocation of his Adult Building Certificate. In effect it requires each commitment of premises to be a serious commitment and provides some protection to elderly or infirm tenants relying on it. At the same time it allows an owner to reconsider his commitment and rent the premises to families with children.

> § 3. It shall be unlawful to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the rental of a living unit, that indicates any preference, limitation or discrimination prohibited by Article 1, Section 17 of the Illinois Constitution of 1970 or prohibited by section 2 of this Act.

Comment: This section is an adaptation of the discriminatory preference publication prohibitions currently embodied in the Arizona statute[99] and the federal Fair Housing Act of 1968.[100] This

99. ARIZ. REV. STAT. ANN. § 33-1317 (1973).
100. 42 U.S.C. § 3604(c) (1970).

section is one of the most important sections of the act and is designed to preclude the widespread dissemination of an owner's discriminatory preferences violative of the statute.

Although the constitutionality of the Arizona provision has not yet been determined, the constitutionality of it and of this section would be upheld upon the same considerations under which the federal prohibition of discriminatory advertising in rental housing has been upheld.[101]

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101. *See* United States v. Hunter, 459 F.2d 205, 215 (4th Cir. 1972) where the circuit court held that both landlords and newspapers are in the purview of the federal statute, declaring that the

> . . .application of § 3604(c) [42 U.S.C. § 3604(c)—the federal discriminatory advertisement prohibition] to newspapers does not contravene freedom of the press protected by the First Amendment.
>
> . . . .
>
> . . .neither due process nor equal protection is abridged by a statute forbidding newspapers from carrying discriminatory housing advertisements (citation omitted).

See Pittsburgh Press Co. v. Pittsburgh Comm'n on Human Relations, 413 U.S. 376 (1973) and Valentine v. Chrestensen, 316 U.S. 52 (1942), where the United States Supreme Court upheld regulation of advertising. *Contra*, Bigelow v. Virginia, 95 S. Ct. 2222 (1975) and New York Times Co. v. Sullivan, 376 U.S. 254 (1964), where the Court struck down advertising regulations as unconstitutional restrictions of commercial speech.

Similar to the handbill advertisement in *Chrestensen*, an apartment rental advertisement does "no more than propose a purely commercial transaction." 95 S.Ct. at 2232. But unlike the published material in *New York Times Co.*, a published apartment rental advertisement has not

> communicated information, expressed opinion, recited grievances, protested claimed abuses, and sought financial support on behalf of a movement whose existence and objectives are matters of the highest public interest and concern.

376 U.S. at 266. Also unlike the advertisement in *Bigelow*, an apartment rental advertisement does not convey

> information of potential interest and value to a diverse audience—. . .to those with a general curiosity about, or genuine interest in, the subject matter or the law of another State and its development. . . .

95 S.Ct. at 2233. Rather, an apartment rental advertisement conveys information of potential interest and value only to "readers possibly in need of the services offered." *Id.*

In view of the propriety of the state's interest and purpose in regulating apartment rentals, the language stressed in *Pittsburgh Press Co.* and mentioned with particularity in *Bigelow*, is deemed to be controlling and to support this section's constitutionality:

> Any First Amendment interest which might be served by advertising an *ordinary commercial proposal* and which might arguably outweigh the governmental interests supporting the regulation is *altogether absent when the commercial activity is itself illegal and the restriction on advertising is incidental to a valid limitation on economic activity.*

95 S.Ct. at 2232, *citing from* 413 U.S. at 389 (emphasis added).

§3-1. It shall be unlawful to make, print, or publish, or cause to be made, printed, or published any listings of notices, statements, or advertisements, with respect to the rental of a living unit whenever such listing does not include a notice prominently displayed in such listing that describes in detail the prohibitions regarding the rental of a living unit as set forth in section 2 of this Act.

Comment: This subsection is specifically designed to increase the awareness of the public regarding the existence of the statute. Only a public informed of its rights as prospective tenants can utilize whatever remedies or enforcement measures are available to them upon encountering a violation of the statute. In view of the commercial speech aspects of this advertising, the authors feel that this publication of notice requirement is constitutional as are the clear and conspicuous notice requirements embodied in various sections of the federal Consumer Credit Protection Act.[102]

§3-2. It shall be unlawful for any owner to fail to include in any lease for a living unit a notice prominently displayed in such lease that states:

> It is unlawful to refuse to rent any living units to a person or persons solely on the ground that such persons have in their family a child or children, unless otherwise provided by law.

Comment: This subsection also is designed specifically to increase a tenant's awareness of the statute by furnishing a tenant a statement concerning the statutory right to freedom from family status discrimination in rental housing.[103]

§4. A summary of the Landlord-Tenant Code of this State,[104] as prepared by the Attorney General of this State, shall be given by the landlord to the tenant subject to a knowledgeable and voluntary release at the tenant's expense. In the event that the landlord has not furnished such a summary to the tenant, and in the further event that the tenant has not complied with a

102. *See, e.g.*, 15 U.S.C. §§ 1631, 1663 (1970).

103. The constitutional basis of this subsection, especially since it applies to commercial entrepreneurs, is similar to that set forth in note 101 *supra*, and the comment accompanying subsection 3-1 *supra*.

104. ILL. REV. STAT. ch. 80 (1973).

lease, ignorance of the law may be pleaded by the tenant in any court of law or equity, and shall be a valid defense. 04

Comment: An adaptation of a Delaware provision, this section is designed not only to increase tenants' awareness of the statute specifically, but also their awareness of the entire Illinois Landlord-Tenant Code generally.[105] Although it appropriately penalizes an owner for noncompliance, the transmittal of such information actually serves the interests of both the owner and the tenant, since the desired result would be tenants who are more informed not only of their rights, but also of their responsibilities and potential liabilities.

§5. Any person violating any of the provisions of sections 2, 3, or 4 of this Act or any subsections of those sections of this Act shall be deemed guilty of a petty offense and shall be fined $500.00 for each and every offense and costs.

Comment: The criminal sanction applicable under a successful prosecution by a state's attorney's office has been raised to the same level as Arizona and New Jersey to help increase the overall deterrent effect of the statute.

§6. The provisions of subsections 6-1 through 6-6 of this Act are to be construed as providing victims of family status discrimination, in violation of sections 2, 3, or 4 of this Act or their subsections, the procedure whereby they can enforce their rights under this Act against any person responsible for such discrimination in a civil action in any court of law or equity in this State.[106]

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105. *See* DEL. CODE ANN. tit. 25, § 6504 (1975) and ILL. REV. STAT. ch. 80 (1973).

106. The provisions of subsection 6-1 to 6-6 and section 7 are patterned after the private attorney general concept embodied in the federal Fair Housing Act of 1968, 42 U.S.C. §§ 3610-12, 3617 (1970). This feature was incorporated due to the insufficient manpower to properly administer the act. *See* Brief for the United States as amicus curiae at 21, Trafficante v. Metropolitan Life Ins. Co., 409 U.S. 205 (1972). These subsections will eliminate the present total dependence of discrimination victims upon the indifferent or overburdened state's attorneys' offices.

The risk of harassment and frivolous lawsuits is not a factor that mitigates against its inclusion. The amendment requires the private party: to file his complaint within 120 days; to have the burden of proof; and to pay for the prosecution of such a suit. Damages are discretionary and maximum punitive damages are specifically provided for. In addition, the risk of multiple lawsuits might serve as an incentive not to discriminate. *See* Comment, *supra* note 9, at 572 for a similar critique of the federal provision.

§6-1. Any person who claims to have been injured by a discriminatory housing practice prohibited by Article 1, Section 17 of the Illinois Constitution of 1970 or prohibited by sections 2, 3, or 4 of this Act or by their subsections, or who believes that he will be irrevocably injured by such a discriminatory housing practice (hereinafter person aggrieved) may file a complaint with the state's attorney in the county in which such act occurred or is about to occur. A complaint must be filed within 120 days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonable and fairly amended at any time. All complaints must be verified.

Comment: This subsection is patterned after §§ 3610(a)-(b) of the federal Fair Housing Act of 1968 (such act hereinafter referred to as Title VIII) and describes the initial procedures for prosecution of a violation of this statute. The term "person aggrieved" refers to *any* person injured or about to be injured, including direct or indirect victims of discrimination.

§6-2. The state's attorney shall investigate the complaint within 21 days after receiving the complaint and shall give notice in writing to the person aggrieved within 28 days after receiving the complaint whether he intends to prosecute the alleged violation. If within 28 days after a complaint is filed, the state's attorney has not begun to prosecute the alleged violation or notified the person aggrieved in writing of his intention to do so, the person aggrieved may, within 28 days thereafter, commence a civil action in any appropriate county circuit court to enforce the rights granted or protected by this Act or by Article 1, Section 17 of the Illinois Constitution of 1970, insofar as such rights relate to the subject of the complaint. If the court finds that a prohibited discriminatory housing practice has occurred or is about to occur, the court may, subject to rules and statute, enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

Comment: This subsection is patterned after § 3610(d) of Title VIII and provides a reasonable opportunity for a state's attorney's office to act and also provides a victim a civil remedy to employ if a state's attorney fails to prosecute the alleged violator. The reduction of the time period for investigation and prosecution by

the state's attorney as compared to the time period under Title VIII is a recognition of the fact that "time is of the essence" in a rental housing discrimination situation.[107]

> §6-3. In any proceeding brought pursuant to this section and the subsections of this section, the burden of proof shall be on the complainant.

Comment: This subsection is a duplication of § 3610(c) of Title VIII and is an affirmance of the prevalent burden of proof rule in such a matter.

> §6-4. Any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this section and the subsections of this section, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this statute, shall not be affected by such court order.

Comment: This subsection is a duplication of the protective proviso in § 3612(a) of Title VIII and is designed to protect those parties who deal with a discriminating landlord in good faith subsequent to a violation of the statute.

> §6-5. To the extent not inconsistent with the law or procedures of this State, and upon application by the plaintiff and in such circumstances as the court may deem just, the court in which a civil action under this statute has been brought may appoint an attorney for the plaintiff and may authorize the commencement of a civil action upon proper showing without the payment of fees, costs or security.

Comment: This subsection is an adaptation of § 3612(b) of Title VIII and is intended to make a victim's redress of a grievance under the statute no more dependent upon wealth than upon the enforcement decison of an understaffed and overburdened state's attorney's office.

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107. Comment, *supra* note 9, at 577.

> . . . most state procedural systems require an excessive amount of time to reach a decision and . . . most state housing commissions [are unable] to prevent the homeowner from selling or leasing the property during the pendency of the commission's decision.

Comment, *supra* note 6, at 90.

§6-6. The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than $1,000.00 punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff.

Comment: This subsection is an adaptation of § 3612(c) of Title VIII and is intended to provide a "broad spectrum of affirmative and other relief" and can "be effectively used to permit a private party to secure the elimination of all acts of discrimination practiced by [a] defendant."[108]

§7. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections 2 through 6 of this Act and by Article 1, Section 17 of the Illinois Constitution of 1970. This section may be enforced by appropriate civil action.

Comment: This section is an adaptation of § 3617 of Title VIII and is intended to prevent the infliction of harassment from operating as an inhibition upon the lawful exercise of a victim's redress of a grievance arising under this statute.

§8. The provisions of this Act are hereby declared to be separable, and if any section or part of this Act is declared to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining portions of the Act if they can be given effect without the invalid portions.

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108. Comment, *supra* note 9, at 575.

APPENDIX A-1

SECTIONAL NEWSPAPER ANALYSIS CUMULATIVE SUMMARY

Area	No. of Multi-unit Availability Ads	Discrimination in Those Ads	Discriminatory Ads %	No. of Single-unit Availability Ads	Discrimination in Those Ads	Discriminatory Ads %	Combined Discriminatory Ads %
Chicago-Central	4	0	0.0%	19	0	0.0%	0.0%
Chicago-South	1,418	155	10.9%	5,919	1,652	27.9%	24.6%
Chicago-Southwest	49	0	0.0%	236	74	31.4%	26.0%
Chicago-North	2,092	58	2.8%	6,492	592	9.1%	7.6%
Chicago-Northwest	302	26	8.6%	2,506	539	21.5%	20.1%
Chicago-West	515	109	21.2%	1,860	441	23.7%	23.2%
Suburban	2,710	129	4.8%	4,978	660	13.3%	10.3%
Furnished-Chicago	1,976	420	21.3%	2,567	826	32.2%	27.4%
Furnished-Suburban	267	19	7.1%	707	142	20.1%	16.5%
Subtotal	9,333	916	9.8%	25,284	4,926	19.5%	16.9%

	No. of Ads	No. of Discriminatory Ads	Discriminatory Ads%
Total	34,617	5,842	16.9%

APPENDIX A-2

CATEGORICAL NEWSPAPER ANALYSIS CUMULATIVE SUMMARY

Area	Type of Availability	No. of Advertisements	No. of Discriminatory Advertisements	% of Discriminatory Advertisements
Chicago-Unfurnished	Multi	4,380	348	7.95%
	Single	17,032	3,298	19.36%
	Total	21,412	3,646	17.03%
Suburban-Unfurnished	Multi	2,710	129	4.76%
	Single	4,978	660	13.26%
	Total	7,688	789	10.26%
Total-Unfurnished	Multi	7,090	477	6.73%
	Single	22,010	3,958	17.98%
	Total	29,100	4,435	15.24%
Chicago-Furnished	Multi	1,976	420	21.26%
	Single	2,567	826	32.18%
	Total	4,543	1,246	27.43%
Suburban-Furnished	Multi	267	19	7.12%
	Single	707	142	20.08%
	Total	974	161	16.53%
Total-Furnished	Multi	2,243	439	19.57%
	Single	3,274	968	29.57%
	Total	5,517	1,407	25.50%

APPENDIX A-3

DISCRIMINATORY PREFERENCE ADVERTISEMENT BREAKDOWN SUMMARY

General Classification	C	S	SW	N	NW	W	Unfurn. Suburb.	Furn. Chic.	Furn. Suburb.	Total
Adults Only	0	258	21	92	155	83	177	119	19	924
Mature Adults	0	37	4	7	10	10	8	16	0	92
Working Adults	0	29	3	0	5	12	4	19	6	78
Elderly Couple	0	17	1	2	5	0	2	13	2	42
Single Person (Predom. Female)	0	7	2	5	5	2	2	22	8	53
No Children	0	11	0	7	25	6	41	6	2	98
Married Couples	0	4	0	2	3	0	6	8	3	26
Over 30	0	2	0	0	0	0	0	8	0	10
Bachelor	0	1	0	0	0	0	7	30	19	57
No Small Child	0	0	0	1	0	0	4	0	0	5
Small Child OK	0	0	0	0	0	0	1	0	0	1
Adults Preferred	0	0	1	16	9	8	19	6	0	59
Elderly "	0	3	0	0	3	0	4	5	1	16
Single Person "	0	0	0	3	2	0	5	4	0	14
Young Couple "	0	0	0	2	1	0	2	0	0	5
Ideal For Adults	0	1	1	0	0	0	1	1	0	4
" " Seniors	0	0	1	0	0	0	1	1	0	3
" " Over 30	0	2	0	0	0	0	0	0	0	2
" " Working People	0	3	0	0	0	1	0	0	1	5
" " Singles	0	1	0	7	0	0	3	1	1	13
Working Couple, 1 Child OK	0	2	0	0	3	1	0	0	0	6
Total	0	378	34	144	226	123	287	259	62	1,513

Note: 91.54% of all of the individual discriminatory preference advertisements are represented in the first ten general classifications (1,385 of the 1,513 individual discriminatory preference advertisements). These ten general classifications do not include the "preferred" or "ideal for . . ." general classifications.

The first six columns above indicate unfurnished apartments located within Chicago according to the type of sectional breakdown previously illustrated in Appendix A-1 and represented by abbreviation.

APPENDIX A-4

INDIVIDUAL NEWSPAPER ANALYSIS SUMMARY

No. of Issues	Newspaper	No. of Ads	No. of Discriminatory Ads	Discriminatory Ad %
18	Chicago Daily News	4,965	1,301	26.20%
12	Chicago Defender	811	121	14.92%
20	Chicago Sun-Times	10,266	2,351	22.90%
21	Chicago Tribune	13,742	1,105	8.04%
2	Belmont Central Leader	71	21	29.58%
9	Berwyn Cicero Life	1,438	383	26.63%
18	Buffalo Grove Herald	1,209	62	5.13%
2	Forest Park Review	7	2	28.57%
3	Harlem-Foster Times	172	27	15.70%
2	Oak Leaves	319	84	26.33%
3	Portage Park News	413	164	39.71%
2	Suburbanite Economist	337	61	18.10%
6	Suburban Life	432	93	21.53%
4	The Trib (area 1)	170	15	8.82%
2	Western Springs Citizen	60	4	6.67%
5	West Side Times	205	48	23.41%
129	16 Newspapers	34,617	5,842	16.88%

APPENDIX B

ADVERTISEMENT IMPRESSION SURVEY SUMMARY

No. of People Surveyed—50

1. Are you aware of Ill. Rev. Stat. ch. 80, §§ 37-38 (1973)?
   Yes — 11 (22%) No — 39 (78%)

2. Will those advertisers who indicate "Adults Only" in their advertisements rent their apartments to families with children under 14 years of age?
   Yes — 1 (2%) No — 49 (98%)

3. Will those advertisers who indicate "Over 30" in their advertisements rent their apartments to families with children under 14 years of age?
   Yes — 3 (6%) No — 46 (92%) Possibly — 1 (2%)

4. Will those advertisers who indicate "Mature Couple," "Retired Couple," "Elderly Couple," "Middle-Age," "Pensioners," etc. rent their apartments to families with children under 14 years of age?
   Yes — 0 (0%) No — 49 (98%) Possibly — 1 (2%)

5. Will those advertisers who indicate "Ideal for Married Couple" or "Ideal for Singles" rent their apartments to families with children under 14 years of age?
   Married Couple:
   Yes — 13 (26%) No — 23 (46%) Possibly — 14 (28%)
   Singles:
   Yes — 10 (20%) No — 28 (56%) Possibly — 12 (24%)

6. Will those advertisers who indicate "Small Child OK" rent their apartments to families with children who are 12 or 13 years of age?
   Yes — 10 (20%) No — 34 (68%) Possibly — 6 (12%)

7. If you had children under 14 years of age in your family and were seeking to rent an apartment, would you contact those advertisers whom you felt would not rent their apartment to you because you had children under 14 years of age in your family?
   Yes — 6 (12%) No — 41 (82%) Possibly — 3 (6%)

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