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## St. Bernard rule was stupid; it's costly too

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**Jarvis DeBerry**

St. Bernard Parish wasted at least \$32,500 settling a lawsuit it never had a chance of winning, but surely residents will be encouraged by Parish President Craig Taffaro Jr.'s victory speech: "We settled without an admission of any wrongdoing," he said. "There was no finding of fault."

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I haven't seen the parish's books, but I doubt there's a line item to defend dumb, racially tainted, unenforceable ordinances. Even so, back when Taffaro was still on the Parish Council, he came up with the idea that St. Bernard needed to be kept pure.

He didn't say the devastated parish needed to be kept racially pure. Rather, he said that it needed to be protected from the taint of renters. But he didn't say the parish needed protection from all renters. St. Bernard Parish homeowners would be allowed to rent to folks related to them "by blood." If such a rule had been enforced, approximately nine of every 10 people renting their properties would have been white, which means people related to them "by blood" would have been white, too.

In and of itself, there's nothing wrong with St. Bernard Parish being overwhelmingly white. But there is something wrong with parish officials creating a restrictive ordinance that would essentially lock in that racial imbalance. As satisfied as parish officials may have been with the way things were, any ordinance aimed at keeping things that way would by its very nature be discriminatory.

The Greater New Orleans Fair Housing Action Center made that point to St. Bernard officials soon after the ordinance was passed in September 2006. Taffaro and the four councilmembers

who supported his ordinance refused to listen. The housing center had the law on its side, but St. Bernard officials made the decision to waste the taxpayer's money trying to reconcile their flawed ordinance with judicial precedent.

Soon after the housing center filed suit, parish officials dropped the blood relative clause of the ordinance. That amended ordinance required that every homeowner who wasn't already renting a particular house before Hurricane Katrina come to the Parish Council with hat in hand and ask that august body's permission to rent it.

That hardly makes it better. The amended version establishes the Parish Council as gatekeeper to the parish, and it's unclear what gives it the power to serve as such. And if the original ordinance was crafted with the parish's pre-Katrina racial make-up in mind, there's reason to worry that the council will approve or reject rental requests with the same ulterior motive.

Lucia Blacksher, an attorney representing the housing center, said the organization will be monitoring the council's decisions to see if its approvals and rejections follow a discriminatory pattern.

Nobody responsible for the original ordinance will say that it was racially inspired. Of course, the courts don't care about the motivation. A law with a discriminatory effect is considered just as bad as a law that was intended to discriminate. That's exactly how it should be. If that were not the case, a discriminatory law that didn't state discrimination as its aim would be acceptable.

That remains a hard truth for supporters of the St. Bernard ordinance to swallow. They argue that an inability to prove that councilmembers meant to discriminate is an automatic exoneration. What a disturbingly low standard. If we were to use it, the only public officials who could ever be accused of racism or discrimination are those who admit to being racist or discriminatory.

Can we agree that we're long past the days when a public official could admit to being racist? That's not to say that Taffaro or any of his colleagues who supported the wrongheaded ordinance are racist. But if they were, it's hard to imagine their being able to come up with an ordinance more insidious than the one they approved.

Had they been committed to everybody having equal access to move into St. Bernard Parish, they would have ditched the ordinance when the housing center pointed out its discriminatory effect. Instead, they threw away a good deal of the parish's precious tax dollars.

But no matter. What's \$32,500 if you don't have to admit you were wrong?

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