

PRESS RELEASE  
FOR IMMEDIATE RELEASE  
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## **BATON ROUGE DEFINITION OF “FAMILY” DECLARED UNCONSTITUTIONAL**

District Court Judge Janice Clark has declared the definition of “family” in the East Baton Rouge Parish Unified Development Code is “unconstitutional and, thus, unenforceable.”

The ruling was issued Wednesday by the 19<sup>th</sup> Judicial District Court jurist in the reconventional demand in the matter of the *City of Baton Rouge/ Parish of East Baton Rouge versus Stephen C. Myers*, Docket Number 610-359, Division D. The judge ordered court costs be paid by the City/Parish.

In addition, Clark dismissed with prejudice the City/Parish’s request for a permanent injunction against Myers to prohibit him from renting to unrelated persons at his property on Cherrydale Avenue in the University Gardens subdivision of the Southside area.

Judge Clark’s ruling described the definition of family as “unconstitutionally vague.” Since 1954, East Baton Rouge’s Unified Development Code (Title 7, Chapter 2) has defined family as “an individual or two (2) or more persons who are related by blood, marriage or legal adoption living together and occupying a single housekeeping unit with single culinary facility; or not more than two (2) persons, or not more than four (4) persons provided the owner lives on the premises living together by joint agreement and occupying a single housekeeping unit with single culinary facilities on a nonprofit, cost-sharing basis.”

Wade Shows and Grant Guillot of the law firm of Shows, Cali and Walsh, LLP, represent Myers in this matter and advocated for him at the January 29 trial. They argued the definition violates a variety of constitutional provisions including clauses of the First, Fifth, Ninth and Fourteenth Amendments of the U.S Constitution that guarantee due process of the law, equal protection of the law, freedom of association, the right to privacy, and other contract and private property rights, including protection against government takings of private property without compensation. Myers’s attorneys also argued that landlords and tenants are afforded even stronger protections of some of these rights by the Louisiana Constitution.

Judge Clark wrote, “The court finds there is no rational basis for the definition of family in the code that furthers a state objective [that justifies] treating creative kinship networks and families such as same sex relationships, non-marital child birth, cohabitation, foster homes, and

the like...[b]eing as common as they are today, with disparate treatment from the traditional nuclear family. No demonstrable state objective has been demonstrated by a preponderance of the evidence. Therefore, the defendant [Myers] has proven the Unified Development Code's definition of family is unconstitutionally vague."

In tossing out the City/Parish's injunction request against Myers, the court indicated the City/Parish "has failed to establish that the defendant is in violation of the definition of family contained in and applied to the Unified Development Code."

Myers, an attorney and real estate broker, testified he does not ask tenants if they are related. He suggested to do so would violate the federal Fair Housing Act based on a fair reading of those laws. Myers contended the City/Parish was placing landlords in a conflicting position that required them to potentially violate a federal law in an effort to comply with a local unconstitutional ordinance.

The court wrote that the Cherrydale family showed it was "an interdependent fictive familial unit" and that "evidence is overwhelming that this non-traditional family, these graduates and contractors, have not caused a decrease in property values. Quite the contrary, it was conclusively shown that the property has increased in its value significantly."

Myers reaction was restrained. "This is a victory for both the U.S. Constitution and the Louisiana Constitution. It is a precedent setting case, not just for Baton Rouge but for all of Louisiana. It impacts people directly -- rich and poor, young and old, and people of all creeds, colors, races and nationalities. This ruling establishes Baton Rouge's leadership position as a tolerant city and protector of private property rights and individual liberties. We thank and commend the court for taking the time necessary to give the case the thoughtful consideration warranted by a request to overturn a 60-year old law. "

He said the ruling would unify the parish, increase property values, safeguard private property rights, protect civil liberties, and "eliminate one more arcane law that has fostered racial and interpersonal sterilization."

Myers, an unsuccessful candidate for Mayor-President in 2012, expressed no ill will toward the administration or parish attorney's office which prosecuted him during the campaign. "They were just doing their job. They did not write the bad law in 1953."

"I am happy for the tenants. As a home owner and landlord, I understand the importance of maintaining the 'curb appeal' of all of my property and positive relationships with my

neighbors. There has never been a police call or a complaint from a neighbor in regard to my Cherrydale property. This all started as a result of a self-appointed, vigilante member of the pitchfork caucus of the Southside Civic Association who bragged and testified that he stakes out tenants of rental property before dawn and after dark for weeks at a time, takes photographs and has a goal to drive property that is leased to non-traditional families out of what he calls HIS neighborhood. I have always wanted my tenants to simply be left alone to enjoy the tranquil seclusion and beauty of their neighborhood. I pride myself in keeping an open mind to the thoughts and opinions of others. I have and will continue to offer to work with the University Gardens Civic Association, Southside Civic Association and others to ensure the charm and natural beauty of our area of Baton Rouge is maintained. However, this ruling sends a clear message to the so-called 'Pitchfork Crowd' that clandestine tactics and threats of intimidation will not be tolerated."

Myers said his attorneys have not been notified whether the City-Parish will appeal the ruling. An appeal would go directly to the Louisiana Supreme Court because the district court declared an ordinance unconstitutional.

He said he and other landlords and tenants have spoken to class action attorneys to investigate whether they have a Section 1983 civil rights claim in federal court.

Myers said a "Private Property Legal Defense Fund" is being set up in the event a defense on appeal must be mounted. He said other landlords and organizations including the Baton Rouge Independent LandLords' Organization (BRILLO) would be mobilized to help with legal expenses or file amicus briefs in an appeal.

Many of the legal pleadings and documents in the court record and more information on the definition of family case can be found at the website [www.themyersmessage.com](http://www.themyersmessage.com).

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Attached: Minute Entry containing ruling of the court

FOR MORE INFORMATION INCLUDING COURT PLEADINGS GO TO  
[WWW.THEMYERSMESSAGE.COM](http://WWW.THEMYERSMESSAGE.COM)

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**This minute entry contains the ruling of this Court. The prevailing party must prepare a judgment. Judgment to be signed accordingly after circulation among counsel and filing with the Clerk.**

**No. 610-359**

**City of Baton Rouge, et al. vs. Stephen C. Myers**

“This Court finds that the petitioner, City/Parish, has failed to establish that defendant is in violation of the definition of family contained in and applied to the Unified Development Code. The testimony by the tenants show that they are not conclusively related by blood, marriage, or adoption, that they are an interdependent fictive familiar unit having been together since they were 6-years-old. The Court further finds there is no rational basis for the definition of family in the code that furthers a state objective of treating creative kinship networks and families such as same sex relationships, non marital child birth, cohabitation, foster homes, and the like. Being as common as they are today should have disparate treatment from the traditional nuclear family. No demonstrable state objective has been demonstrated by a preponderance of the evidence. Therefore, the defendant has proven that the Unified Development Code’s definition of family is unconstitutionally vague. Moreover, the evidence is overwhelming that this non traditional family, these graduates and contractors have not caused a decrease in property value. Quite the contrary, it was conclusively shown that the property has increased in its value significantly. Accordingly, this Court hereby dismisses the City/Parish’s petition for permanent injunction with prejudice at its costs. It further declares that the definition of family contained in and applied to the Unified Development Code for the City of Baton Rouge/Parish of East Baton is unconstitutional and, thus, unenforceable ordering the City/Parish to pay costs. Judgment to be signed accordingly upon presentation. Notify Counsel.”

**(Lori Achee, Wednesday, April 24, 2013)**