514 U.S. 725 (1995)

CITY OF EDMONDS
v.
OXFORD HOUSE, INC., et al.

No. 94-23.

United States Supreme Court.

Argued March 1, 1995.
Decided May 15, 1995.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Ginsburg, J., delivered the opinion of the Court, in which Rehnquist, C. J., and Stevens, O'Connor, Souter, and Breyer, JJ., joined. Thomas, J., filed a dissenting opinion, in which Scalia and Kennedy, JJ., joined.

W. Scott Snyder argued the cause and filed briefs for petitioner.

William F. Sheehan argued the cause for private respondents. With him on the brief were *Elizabeth M. Brown, David E. Jones, John P. Relman, Robert I. Heller,* and*Steven R. Shapiro.*

Deputy Solicitor General Bender argued the cause for respondent United States. With him on the brief were *Solicitor General Days, Assistant Attorney General Patrick, Cornelia T. L. Pillard, Jessica Dunsay Silver,* and *Gregory B. Friel.*[*]

Justice Ginsburg, delivered the opinion of the Court.

The Fair Housing Act (FHA or Act) prohibits discrimination in housing against, *inter alios*, persons with handicaps.[1] Section 807(b)(1) of the Act entirely exempts from the FHA's compass "any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling." 42 U. S. C. § 3607(b)(1). This case presents the question whether a provision in petitioner City of Edmonds' zoning code qualifies for § 3607(b)(1)'s complete exemption from FHA scrutiny. The provision, governing areas zoned for single-family dwelling units, defines "family" as "persons [without regard to number] related by genetics, adoption, or marriage, or a group of five or fewer [unrelated] persons." Edmonds Community Development Code (ECDC) § 21.30.010 (1991).

The defining provision at issue describes who may compose a family unit; it does not prescribe "*the* maximum number of occupants" a dwelling unit may house. We hold that § 3607(b)(1) does not exempt prescriptions of the familydefining kind, *i. e.*,provisions designed to foster the family character of a neighborhood. Instead, § 3607(b)(1)'s absolute exemption removes from the FHA's

scope only total occupancy limits, *i. e.*, numerical ceilings that serve to prevent overcrowding in living quarters.

I

In the summer of 1990, respondent Oxford House opened a group home in the City of Edmonds, Washington (City), for 10 to 12 adults recovering from alcoholism and drug addiction. The group home, called Oxford House-Edmonds, is located in a neighborhood zoned for single-family residences. Upon learning that Oxford House had leased and was operating a home in Edmonds, the City issued criminal citations to the owner and a resident of the house. The citations charged violation of the zoning code rule that defines who may live in single-family dwelling units. The occupants of such units must compose a "family," and family, under the City's defining rule, "means an individual or two or more persons related by genetics, adoption, or marriage, or a group of five or fewer persons who are not related by genetics, adoption, or marriage." ECDC § 21.30.010. Oxford House-Edmonds houses more than five unrelated persons, and therefore does not conform to the code.

Oxford House asserted reliance on the Fair Housing Act, 102 Stat. 1619, 42 U. S. C. § 3601 *et seq.*, which declares it unlawful "[t]o discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of . . . that buyer or renter." § 3604(f)(1)(A). The parties have stipulated, for purposes of this litigation, that the residents of Oxford House-Edmonds "are recovering alcoholics and drug addicts and are handicapped persons within the meaning" of the Act. App. 106.

Discrimination covered by the FHA includes "a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford [handicapped] person[s] equal opportunity to use and enjoy a dwelling." § 3604(f)(3)(B). Oxford House asked Edmonds to make a "reasonable accommodation" by allowing it to remain in the single-family dwelling it had leased. Group homes for recovering substance abusers, Oxford urged, need 8 to 12 residents to be financially and therapeutically viable. Edmonds declined to permit Oxford House to stay in a single-family residential zone, but passed an ordinance listing group homes as permitted uses in multifamily and general commercial zones.

Edmonds sued Oxford House in the United States District Court for the Western District of Washington, seeking a declaration that the FHA does not constrain the City's zoning code family definition rule. Oxford House counterclaimed under the FHA, charging the City with failure to make a "reasonable accommodation" permitting maintenance of the group home in a single-family zone. The United States filed a separate action on the same FHA "reasonable accommodation" ground, and the two cases were consolidated. Edmonds suspended its criminal enforcement actions pending resolution of the federal litigation.

On cross-motions for summary judgment, the District Court held that ECDC § 21.30.010, defining "family," is exempt from the FHA under § 3607(b)(1) as a "reasonable . . . restrictio[n] regarding the maximum number of occupants permitted to occupy a dwelling." App. to Pet. for Cert. B-7. The United States Court of Appeals for the Ninth Circuit reversed; holding § 3607(b)(1)'s absolute exemption inapplicable, the Court of Appeals remanded the cases for

further consideration of the claims asserted by Oxford House and the United States. *Edmonds* v. *Washington State Building Code Council*, 18 F. 3d 802 (1994).

The Ninth Circuit's decision conflicts with an Eleventh Circuit decision declaring exempt under § 3607(b)(1) a family definition provision similar to the Edmonds prescription. See *Elliott* v. *Athens*, 960 F. 2d 975 (1992).[2] We granted certiorari to resolve the conflict, 513 U. S. 959 (1994), and we now affirm the Ninth Circuit's judgment.[3]

II

The sole question before the Court is whether Edmonds' family composition rule qualifies as a "restrictio[n] regarding the maximum number of occupants permitted to occupy a dwelling" within the meaning of the FHA's absolute exemption. 42 U. S. C. § 3607(b)(1).[4] In answering this question, we are mindful of the Act's stated policy "to provide, within constitutional limitations, for fair housing throughout the United States." § 3601. We also note precedent recognizing the FHA's "broad and inclusive" compass, and therefore according a "generous construction" to the Act's complaint filing provision. *Trafficante* v. *Metropolitan Life Ins. Co.*, 409 U. S. 205, 209, 212 (1972). Accordingly, we regard this case as an instance in which an exception to "a general statement of policy" is sensibly read "narrowly in order to preserve the primary operation of the [policy]." *Commissioner* v. *Clark*, 489 U. S. 726, 739 (1989).[5]

A

Congress enacted § 3607(b)(1) against the backdrop of an evident distinction between municipal land-use restrictions and maximum occupancy restrictions.

Land-use restrictions designate "districts in which only compatible uses are allowed and incompatible uses are excluded." D. Mandelker, Land Use Law § 4.16, pp. 113-114 (3d ed. 1993) (hereinafter Mandelker). These restrictions typically categorize uses as single-family residential, multiple-family residential, commercial, or industrial. See, *e. g.*, 1 E. Ziegler, Jr., Rathkopf's The Law of Zoning and Planning § 8.01, pp. 8-2 to 8-3 (4th ed. 1995); Mandelker § 1.03, p. 4; 1 E. Yokley, Zoning Law and Practice § 7-2, p. 252 (4th ed. 1978).

Land-use restrictions aim to prevent problems caused by the "pig in the parlor instead of the barnyard." *Village of Euclid* v. *Ambler Realty Co.*, 272 U. S. 365, 388 (1926). In particular, reserving land for single-family residences preserves the character of neighborhoods, securing "zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people." *Village of Belle Terre* v. *Boraas*, 416 U. S. 1, 9 (1974); see also *Moore* v.*East Cleveland*, 431 U. S. 494, 521 (1977) (Burger, C. J., dissenting) (purpose of East Cleveland's single-family zoning ordinance "is the traditional one of preserving certain areas as family residential communities"). To limit land use to single-family residences, a municipality must define the term "family"; thus family composition rules are an essential component of single-family residential use restrictions.

Maximum occupancy restrictions, in contradistinction, cap the number of occupants per dwelling, typically in relation to available floor space or the number and type of rooms. See, *e.*

g., International Conference of Building Officials, Uniform Housing Code § 503(b) (1988); Building Officials and Code Administrators International, Inc., BOCA National Property Maintenance Code §§ PM-405.3, PM-405.5 (1993) (hereinafter BOCA Code); Southern Building Code Congress, International, Inc., Standard Housing Code §§ 306.1, 306.2 (1991); E. Mood, APHA—CDC Recommended Minimum Housing Standards § 9.02, p. 37 (1986) (hereinafter APHA— CDC Standards).[6] These restrictions ordinarily apply uniformly to *all* residents of *all* dwelling units. Their purpose is to protect health and safety by preventing dwelling overcrowding. See, *e. g.*, BOCA Code §§ PM-101.3, PM-405.3, PM-405.5 and commentary; Abbott, Housing Policy, Housing Codes and Tenant Remedies: An Integration, 56 B. U. L. Rev. 1, 41-45 (1976).

We recognized this distinction between maximum occupancy restrictions and land-use restrictions in *Moore* v. *East Cleveland*, 431 U. S. 494 (1977). In *Moore*, the Court held unconstitutional the constricted definition of "family" contained in East Cleveland's housing ordinance. East Cleveland's ordinance "select[ed] certain categories of relatives who may live together and declare[d] that others may not"; in particular, East Cleveland's definition of "family" made "a crime of a grandmother's choice to live with her grandson." *Id.*, at 498-499 (plurality opinion). In response to East Cleveland's argument that its aim was to prevent overcrowded dwellings, streets, and schools, we observed that the municipality's restrictive definition of family served the asserted, and undeniably legitimate, goals "marginally, at best." *Id.*,at 500 (footnote omitted). Another East Cleveland ordinance, we noted, "specifically addressed . . . the problem of overcrowding"; that ordinance tied "the maximum permissible occupancy of a dwelling to the habitable floor area." *Id.*, at 500, n. 7; accord, *id.*, at 520, n. 16 (Stevens, J., concurring in judgment). Justice Stewart, in dissent, also distinguished restrictions designed to "preserv[e] the character of a residential area," from prescription of "a minimum habitable floor area per person," *id.*,at 539, n. 9, in the interest of community health and safety.[7]

Section 3607(b)(1)'s language—"restrictions regarding the maximum number of occupants permitted to occupy a dwelling"—surely encompasses maximum occupancy restrictions.[8] But the formulation does not fit family composition rules typically tied to land-use restrictions. In sum, rules that cap the total number of occupants in order to prevent overcrowding of a dwelling "plainly and unmistakably," see *A. H. Phillips, Inc.* v. *Walling*, 324 U. S. 490, 493 (1945), fall within § 3607(b)(1)'s absolute exemption from the FHA's governance; rules designed to preserve the family character of a neighborhood, fastening on the composition of households rather than on the total number of occupants living quarters can contain, do not.[9]

B

Turning specifically to the City's Community Development Code, we note that the provisions Edmonds invoked against Oxford House, ECDC §§ 16.20.010 and 21.30.010, are classic examples of a use restriction and complementing family composition rule. These provisions do not cap the number of people who may live in a dwelling. In plain terms, they direct that dwellings be used only to house families. Captioned "USES," ECDC § 16.20.010 provides that the sole "Permitted Primary Us[e]" in a single-family residential zone is "[s]ingle-family dwelling units." Edmonds itself recognizes that this provision simply "defines those uses permitted in a single family residential zone." Pet. for Cert. 3.

A separate provision caps the number of occupants a dwelling may house, based on floor area:

"Floor Area. Every dwelling unit shall have at least one room which shall have not less than 120 square feet of floor area. Other habitable rooms, except kitchens, shall have an area of not less than 70 square feet. Where more than two persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of 50 square feet for each occupant in excess of two." ECDC § 19.10.000 (adopting Uniform Housing Code § 503(b) (1988)).[10]

This space and occupancy standard is a prototypical maximum occupancy restriction.

Edmonds nevertheless argues that its family composition rule, ECDC § 21.30.010, falls within § 3607(b)(1), the FHA exemption for maximum occupancy restrictions, because the rule caps at five the number of unrelated persons allowed to occupy a single-family dwelling. But Edmonds' family composition rule surely does not answer the question: "What is the maximum number of occupants permitted to occupy a house?" So long as they are related "by genetics, adoption, or marriage," any number of people can live in a house. Ten siblings, their parents and grandparents, for example, could dwell in a house in Edmonds' single-family residential zone without offending Edmonds' family composition rule.

Family living, not living space per occupant, is what ECDC § 21.30.010 describes. Defining family primarily by biological and legal relationships, the provision also accommodates another group association: Five or fewer unrelated people are allowed to live together as though they were family. This accommodation is the peg on which Edmonds rests its plea for § 3607(b)(1) exemption. Had the City defined a family solely by biological and legal links, § 3607(b)(1) would not have been the ground on which Edmonds staked its case. See Tr. of Oral Arg. 11-12, 16. It is curious reasoning indeed that converts a family values preserver into a maximum occupancy restriction once a town adds to a related persons prescription "and also two unrelated persons."[11]

Edmonds additionally contends that subjecting single family zoning to FHA scrutiny will "overturn Euclidian zoning" and "destroy the effectiveness and purpose of single family zoning." Brief for Petitioner 11, 25. This contention both ignores the limited scope of the issue before us and exaggerates the force of the FHA's antidiscrimination provisions. We address only whether Edmonds' family composition rule qualifies for § 3607(b)(1) exemption. Moreover, the FHA antidiscrimination provisions, when applicable, require only "reasonable" accommodations to afford persons with handicaps "equal opportunity to use and enjoy" housing. §§ 3604(f)(1)(A) and (f)(3)(B).

The parties have presented, and we have decided, only a threshold question: Edmonds' zoning code provision describing who may compose a "family" is not a maximum occupancy restriction exempt from the FHA under § 3607(b)(1). It remains for the lower courts to decide whether Edmonds' actions against Oxford House violate the FHA's prohibitions against discrimination set out in §§ 3604(f)(1)(A) and (f)(3)(B). For the reasons stated, the judgment of the United States Court of Appeals for the Ninth Circuit is

Affirmed.

[1] The FHA, as originally enacted in 1968, prohibited discrimination based on race, color, religion, or national origin. See 82 Stat. 83. Proscription of discrimination based on sex was added in 1974. See Housing and Community Development Act of 1974, § 808(b), 88 Stat. 729. In 1988, Congress extended coverage to persons with handicaps and also prohibited "familial status" discrimination, *i. e.,*discrimination against parents or other custodial persons domiciled with children under the age of 18. 42 U. S. C. § 3602(k).

[2] The single-family residential zoning provision at issue in *Elliott* defines "family," in relevant part, as "[o]ne (1) or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage or adoption, no such family shall contain over four (4) persons." 960 F. 2d, at 976.

[3] On May 17, 1993, the State of Washington enacted a law providing:

"No city may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, `handicaps' are as defined in the federal fair housing amendments act of 1988 (42 U. S. C. Sec. 3602)." Wash. Rev. Code § 35.63.220 (1994).

The United States asserts that Washington's new law invalidates ECDC § 21.30.010, Edmonds' family composition rule, as applied to Oxford House-Edmonds. Edmonds responds that the effect of the new law is "far from clear." Reply to Brief in Opposition 4. Even if the new law prevents Edmonds from enforcing its rule against Oxford House, a live controversy remains because the United States seeks damages and civil penalties from Edmonds, under 42 U. S. C. §§ 3614(d)(1)(B) and (C), for conduct occurring prior to enactment of the state law. App. 85.

[4] Like the District Court and the Ninth Circuit, we do not decide whether Edmonds' zoning code provision defining "family," as the City would apply it against Oxford House, violates the FHA's prohibitions against discrimination set out in 42 U. S. C. §§ 3604(f)(1)(A) and (f)(3)(B).

[5] The dissent notes *Gregory* v. *Ashcroft,* 501 U. S. 452 (1991), as an instance in which the Court did not tightly cabin an exemption contained in a statute proscribing discrimination. See *post,* at 743-744.*Gregory* involved an exemption in the Age Discrimination in Employment Act of 1967, 81 Stat. 602, as amended, 29 U. S. C. §§ 621-634, covering state and local elective officials and "appointee[s] on the policy making level." § 630(f). The question there was whether state judges fit within the exemption. We held that they did. A state constitutional provision, not a local ordinance, was at stake in *Gregory*— a provision going "beyond an area traditionally regulated by the States" to implicate "a decision of the most fundamental sort for a sovereign entity." 501 U. S., at 460. In that light, the Court refused to attribute to Congress, absent plain statement, any intent to govern the tenure of state judges. Nothing in today's opinion casts a cloud on the soundness of that decision.

[6] Contrary to the dissent's suggestion, see *post,* at 745, n. 5, terminology in the APHA—CDC Standards bears a marked resemblance to the formulation Congress used in § 3607(b)(1). See APHA—CDC Standards § 2.51, p. 12 (defining "Permissible Occupancy" as "the maximum number of individuals permitted to reside in a dwelling unit, or rooming unit").

[7] Other courts and commentators have similarly differentiated between land-use restrictions and maximum occupancy restrictions. See, *e. g., State* v. *Baker,* 81 N. J. 99, 110, 405 A. 2d 368, 373 (1979); 7A E. McQuillin, The Law of Municipal Corporations § 24.504 (3d ed. 1989); Abbott, Housing Policy, Housing Codes and Tenant Remedies: An Integration, 56 B. U. L. Rev. 1, 41 (1976).

[8] The plain import of the statutory language is reinforced by the House Committee Report, which observes: "A number of jurisdictions limit the number of occupants per unit based on a minimum number of square feet in the unit or the sleeping areas of the unit. Reasonable limitations by governments would be allowed to continue, as long as they were applied to all occupants, and did not operate to discriminate on the basis of race, color, religion, sex, national origin, handicap or familial status." H. R. Rep. No. 100-711, p. 31 (1988).

[9] Tellingly, Congress added the § 3607(b)(1) exemption for maximum occupancy restrictions at the same time it enlarged the FHA to include a ban on discrimination based on "familial status." See*supra,* at 728, n. 1. The provision making it illegal to discriminate in housing against families with children under the age of 18 prompted fears that landlords would be forced to allow large families to crowd into small housing units. See, *e. g.* , Fair Housing Amendments Act of 1987: Hearings on H. R. 1158 before the Subcommittee on Civil and Constitutional Rights of the

House Committee on the Judiciary, 100th Cong., 1st Sess., 656 (1987) (remarks of Rep. Edwards) (questioning whether a landlord must allow a family with 10 children to live in a two-bedroom apartment). Section 3607(b)(1) makes it plain that, pursuant to local prescriptions on maximum occupancy, landlords legitimately may refuse to stuff large families into small quarters. Congress further assured in § 3607(b)(1) that retirement communities would be exempt from the proscription of discrimination against families with minor children. In the sentence immediately following the maximum occupancy provision, § 3607(b)(1) states: "Nor does any provision in this subchapter regarding familial status apply with respect to housing for older persons."

[10] An exception to this provision sets out requirements for efficiency units in apartment buildings. See ECDC § 19.10.000 (1991) (adopting Uniform Housing Code § 503(b) (1988)).

[11] This curious reasoning drives the dissent. If Edmonds allowed only related persons (whatever their number) to dwell in a house in a singlefamily zone, then the dissent, it appears, would agree that the § 3607(b)(1) exemption is unavailable. But so long as the City introduces a specific number—*any*number (two will do)—the City can insulate its single-family zone *entirely* from FHA coverage. The exception-takes-the-rule reading the dissent advances is hardly the "generous construction" warranted for antidiscrimination prescriptions. See *Trafficante* v.*Metropolitan Life Ins. Co.*, 409 U. S. 205, 212 (1972).