

CHAPTER 71: FAIR HOUSING

Section

- 71.01 Definitions
- 71.02 Interpretation and effect
- 71.03 Discrimination in the sale of housing
- 71.04 Discrimination in the financing of housing
- 71.05 Discrimination in the provision of brokerage services
- 71.06 Exemptions and exclusions
- 71.07 Fair housing administrator
- 71.08 Complaints
- 71.09 Investigation
- 71.10 Cumulative legal effect
- 71.11 Unlawful intimidation
- 71.12 Cooperation with the Secretary of Housing and Urban Development
- 71.13 Education and public information
- 71.14 Penalty

§ 71.01 Definitions

For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words so used in the present tense include the future; words in the masculine gender include the feminine; words in the plural number include the singular, and words in the singular number include the plural.

- (a) "Discriminatory housing practice" means an act that is unlawful under Sections 3, 4, or 5 of this chapter.
- (b) "Age" means the calendar age of an individual eighteen (18) years of age or over.
- (c) "Creed" means any set of principles, rules, opinions and precepts formally expressed and seriously adhered to or maintained by a person.
- (d) "Dwelling" means any building, structure or portion thereof which is occupied as, or designed and intended for occupancy as, a residence by one or more families or any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.
- (e) "Family" includes a single individual or a group of individuals living together under one common roof.
- (f) "Major life activities" means functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(g) "Marital status" means an individual's status as a single, married, divorced, widowed or separated person.

(h) "Parenthood" means a person's status as a parent or legal guardian of a child or children under the age of eighteen (18).

(i) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, fiduciaries, and any other organization or entity of whatever character.

j) "Physical or mental disability" means any physical or mental impairment which substantially limits one or more major life activities. "Physical or mental impairment" shall include:

(1) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculo-skeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or,

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(k) "To rent" includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(l) "Senior adult" means a person fifty-five (55) years of age or older.

§ 71.02 Interpretation And Effect

This chapter shall in no way be interpreted as creating a judicial right or remedy which is the same or substantially equivalent to the remedies provided under Title Vill of the Civil Rights Act of 1968, as amended, or the Federal Equal Credit Opportunity Act (15 U.S.C. 1691). All aggrieved parties shall retain the rights granted to them by Title Vill of the Civil Rights Act of 1968, as amended, and the Federal Equal Credit Opportunity Act. In construing this chapter, it is the intent of the City Council that the courts shall be guided by Federal Court interpretations of Title Vill of the Civil Rights Act of 1968, as amended, and the Federal Equal Credit Opportunity Act, where appropriate.

§ 71.03 Discrimination in the Sale of Housing

Except as exempted by § 71.06, it shall be unlawful for any person to:

(a) Refuse to sell or rent, after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age.

(b) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age.

(c) Make, print, publish, or cause to be made, printed or published any notice, statement or advertisement regarding the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age, or any intention to make any such preference, limitation or discrimination;

(d) Represent to any person because of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available;

(e) For profit or with the hope or expectation of profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age; and,

(f) For profit or with the hope or expectations of profit to influence or attempt to influence, by any words, acts, or failure to act, any seller, purchaser, landlord or tenant of a dwelling so as to promote the maintenance of racially segregated housing or so as to retard, obstruct, or discourage racially integrated housing.

§ 71.04 Discrimination in the Financing of Housing

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part of the making of commercial or residential real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against any such person in the fixing of the amount, interest rate, brokerage points, duration, or other terms or conditions of such loan or their financial assistance, because of:

(a) The race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age of such person or of any person associated with him in connection with such loan or other financial assistance; or,

(b) The race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age of the present or prospective owner, lessees, tenants, or occupants of the dwelling or dwellings for which such a loan or other financial assistance is to be made or given.

§ 71.05 Discrimination in the Provision of Brokerage Services

It shall be unlawful for any person to deny access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate in the terms or conditions of such access, membership or participation, on account of race, color, creed, sex, religion or national origin, physical or mental disability, marital status, parenthood or age.

§ 71.06 Exemptions and Exclusions

(a) There shall be exempted from the application of Section 3 hereof all transactions involving:

(1) The rental of units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner actually maintains and occupies one of such units as his residence.

(2) The rental of a single room in a dwelling containing living quarters occupied or intended to be occupied by no more than one family if the person offering such room for rental actually maintains and occupies the remainder of such dwelling as his residence and not more than four such rooms are offered.

(3) The sale or rental of any single house by a private individual who owns such house provided that:

(i) The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings or of any employee or agent of any such broker, agent, salesman, or person; and

(ii) The sale is made without the publication, posting or mailing of any advertisement or written notice in violation of this chapter (this shall not prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title); and

(iii) The owner does not own more than three single family houses at the time of the sale; and,

(iv) The owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental or more than three such single family houses at any one time.

(v) If the owner does not reside in the house at the time of sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period.

(b) Nothing in this chapter shall prohibit a religious organization, association, or society or any non-profit institution or organization operated, supervised, or controlled by or in conjunction

with a religious association, or society from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin, sex, mental or physical disability, marital status, parenthood or age.

(c) Nothing in this chapter shall prohibit a bona fide private club, not in fact open to the public, which as an incident to its primary purpose provides lodging which it owns or operates for other than a commercial purpose from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(d) Nothing in this chapter shall bar any person from owning and operating a housing accommodation in which a room or rooms are leased, subleased or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen or similar facilities available for the use of all persons occupying such housing accommodation.

(e) Nothing in this chapter shall prohibit the sale, rental, lease or occupancy of any dwelling designed and operated exclusively for senior adults and their spouses, unless the sale, rental, lease or occupancy is further restricted on account of race, color, creed, religion, sex, national origin, physical or mental handicap and marital status.

(f) Nothing in this chapter shall bar a person who owns, operates or controls rental dwellings, whether located on the same property or on one or more contiguous parcels of property, from reserving any grouping of dwellings for the rental or lease to tenants with a minor child or children; provided however, in the event that said reserved area is completely leased or rented, the person owning, operating or controlling said rental dwelling may not refuse to rent or lease any other available dwelling to the prospective tenant on the basis of the tenant's status as parent or any other of the protected classifications set forth in this chapter.

§ 71.07 Fair Housing Administrator

The Mayor shall appoint and the City Council shall confirm a Fair Housing Administrator (hereinafter referred to as "Administrator"), who shall have the responsibility for implementing this chapter. The Administrator may delegate his-authority to investigate and conciliate complaints to other City employees under his direction.

§ 71.08 Complaints

(a) Only the person who claims to have been injured by a discriminatory housing practice who believes he will be irrevocably injured by a discriminatory housing practice that has occurred or is occurring (hereinafter referred to as "person aggrieved") may file a complaint with the Administrator. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The Administrator shall prepare complaint forms and furnish them without charge to any person, upon request.

(b) A copy of all complaints filed with the City shall also be forwarded to the Fair Housing and Equal Opportunity Division of the Region VI Office of the Department of Housing and Urban Development.

(c) The Administrator shall provide for free administrative counseling to those complainants who wish to file a private suit for relief in the local, state, or federal court.

(d) If at any time the Administrator shall receive or discover credible evidence and shall have probable cause to believe that any person or persons have committed or are committing a discriminatory housing practice as to which no complaint has been filed, the Administrator may prepare and file a complaint upon his own motion and in his own name and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.

(e) The Administrator shall receive and accept notification and referral complaints from the U.S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of Title VIII, Fair Housing Act of 1968, Public Law 90-284, and shall treat such complaints hereunder in the same manner as complaints filed pursuant to Paragraph A of this Section.

(f) All complaints shall be filed within sixty (60) days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the Administrator shall provide notice of the complaint by furnishing a copy of such complaint to the persons named therein who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The accused may file an answer to the complaint within fifteen (15) days of receipt of the written complaint.

(g) All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.

§ 71.09 Investigation

(a) Upon the filing or referral of a complaint as herein provided, the Administrator shall cause to be made a prompt and full investigation of the matter stated in the complaint.

(b) If the Administrator determines that there is not probable cause to believe that a particular alleged discriminatory housing practice has been committed, the Administrator shall take no further action with respect to that alleged offense.

(c) During or after the investigation, but subsequent to the mailing of the notice of complaints, the Administrator shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and adequate assurance of future voluntary compliance with the provisions of this chapter. Nothing said or done in the course of such informal endeavors may be made public by the Administrator, by the complainant or by any other party to the proceedings without the written consent of all persons concerned.

(d) Upon completion of the investigation and informal endeavors at conciliation by the Administrator, but within thirty (30) days of the filing of the complaint with the Administrator, if the efforts of the Administrator to secure voluntary compliance have been unsuccessful, and if the Administrator has made a determination that a discriminatory housing practice has in fact occurred, the Administrator shall recommend to the City Attorney that such violations be prosecuted in the Municipal Court. With such recommendations, the Administrator shall refer his entire file to the City Attorney. The City Attorney shall, within thirty (30) days after such referral, make a determination as to whether to proceed with prosecution of such complaint in Municipal Court. If the City Attorney determines to prosecute, he shall institute a complaint and prosecute same to conclusion within thirty (30) days after such determination or as soon thereafter as practicable.

§ 71.10 Cumulative Legal Effect

This chapter is cumulative in its legal effect and is not in lieu of any and all other legal remedies that the person aggrieved may pursue.

§ 71.11 Unlawful Intimidation

It shall be unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because he or they have complied with the provisions of this chapter, because he or they have exercised his or their rights under this chapter, or enjoyed the benefits of this chapter, or because he or they have made a charge, testified or assisted in any investigation, or in any proceeding hereunder or have made any report to the Administrator.

§ 71.12 Cooperation with the Secretary Of Housing And Urban Development

The Administrator and the City Attorney are authorized to cooperate with the Secretary of Housing and Urban Development and the U.S. Attorney General pursuant to the provisions of Title VII, Fair Housing Act of 1968, Public Law 90-284, and may render such service to the Secretary as they shall deem appropriate to further the policies of this chapter.

§ 71.13 Education And Public Information

In order to further the objectives of this chapter, the Administrator may conduct educational and public information programs.

§ 71.14 Penalty

Any person, firm, or corporation violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction, shall be fined a sum not to exceed Two Hundred Dollars (\$200.00) for each violation. Each day a violation continues after passage of seventy-five (75) days from date of the filing of the initial complaint with the Administrator shall constitute a separate and distinct offense.

Any person, firm, or corporation violating any provision of this chapter may be enjoined by order of a court of competent jurisdiction, and this remedy is in addition to any other penalty provision.